

LESSON 1 | CIVIL LAW



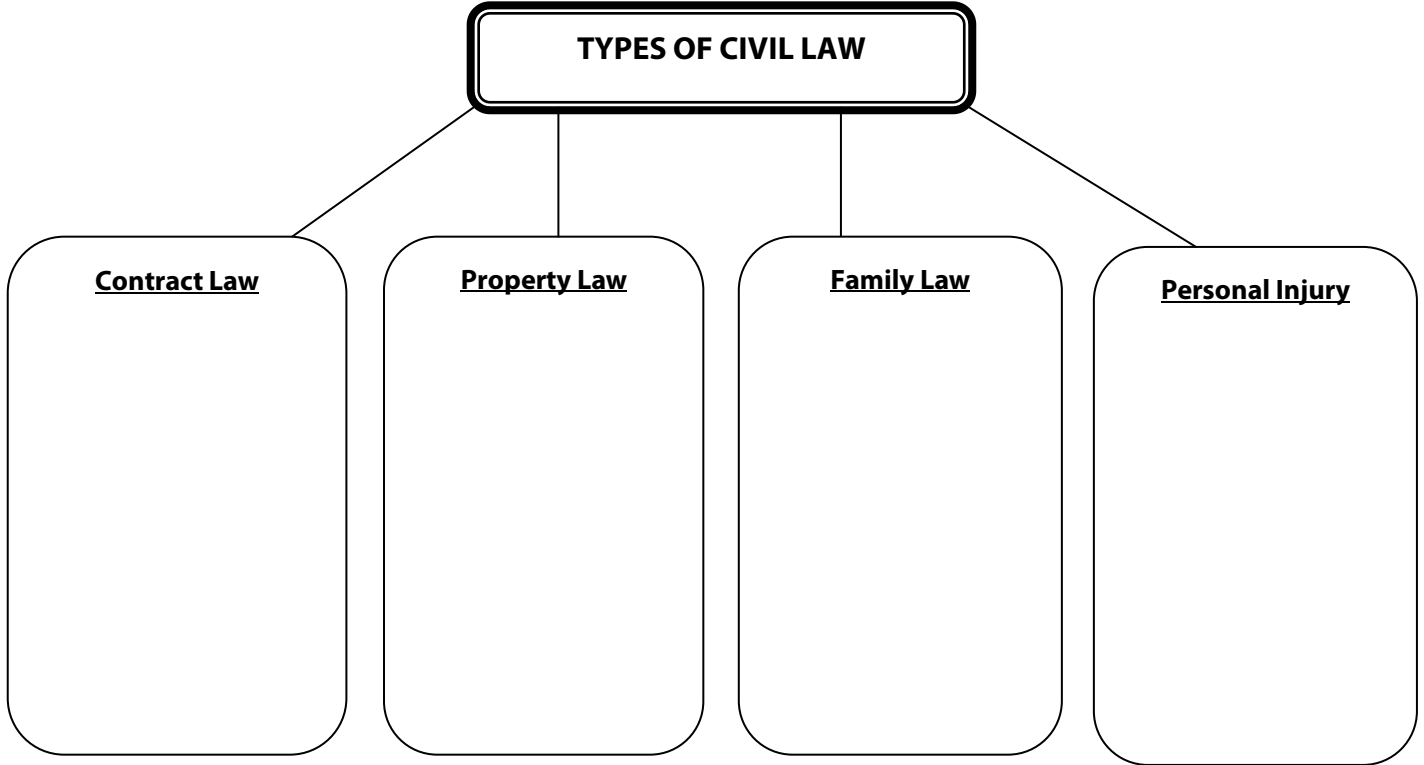
ACTIVE NOTE-TAKING ACTIVITY

Types of Civil Law

Guiding Question: What is civil law?

1. What is civil law?
p. 432

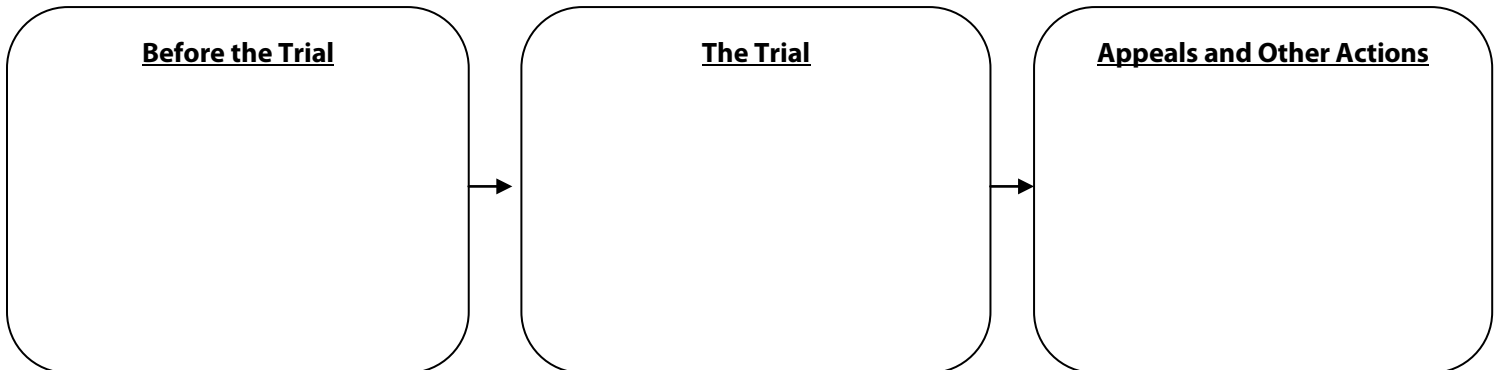
2. In the graphic organizer below, describe the different types of civil law.
pp. 432-434



The Legal Process in Civil Cases

Guiding Question: What legal procedures are followed in civil lawsuits?

3. Using pages 435-436 in your textbook, fill in the civil trial time line below, describing the main points in each stage. Be sure to use the following words in your descriptions: *plaintiff, defendant, complaint, damages, summons, and discovery.*

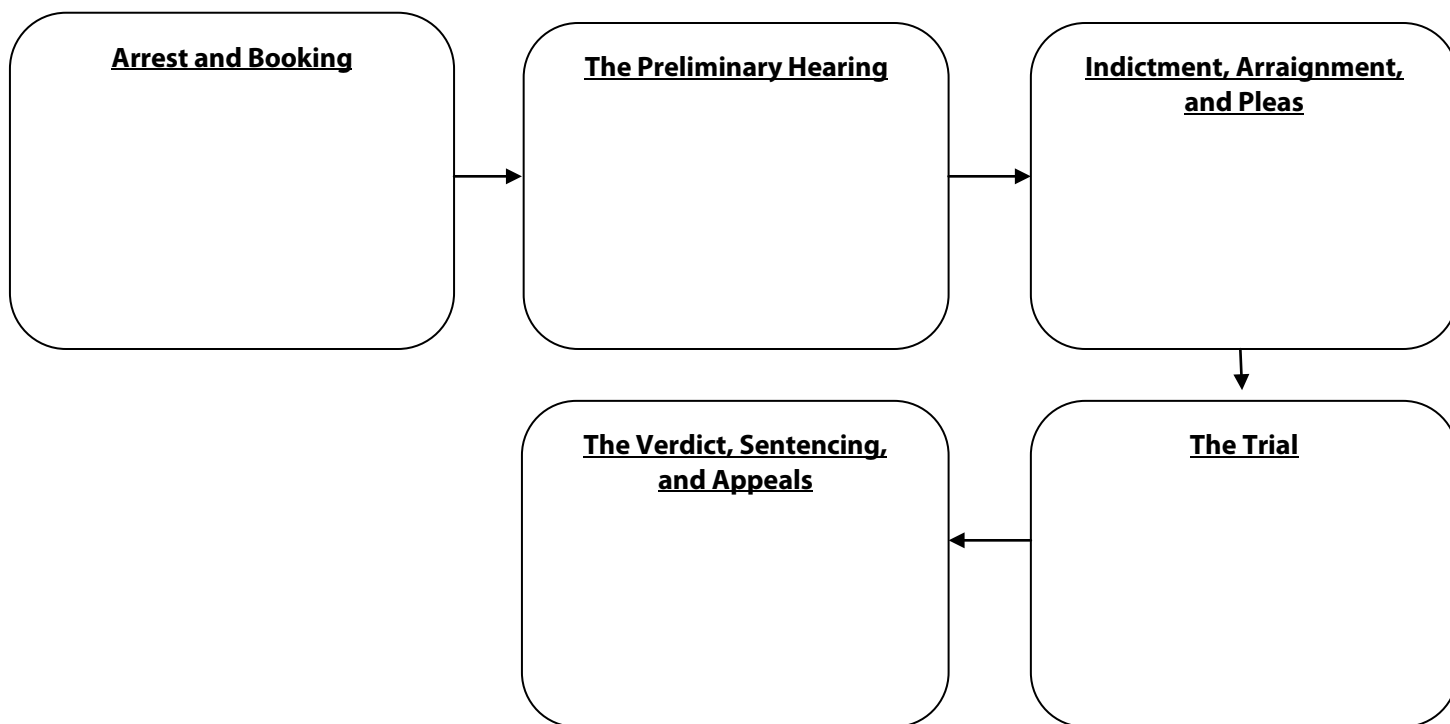


LESSON 2 | CRIMINAL LAW



ACTIVE NOTE-TAKING ACTIVITY

| Crime and Punishment | | |
|---|----------------------|---------------------------|
| <i>Guiding Question: What does criminal law involve?</i> | | |
| 1. What is a crime? Where are each state’s criminal laws and punishments spelled out? p. 437 | | |
| 2. Explain the difference between a felony and a misdemeanor. Provide examples of each. pp. 438-439 | <u>Felony</u> | <u>Misdemeanor</u> |
| 3. How are lawbreakers punished? What is the purpose of punishment? p. 439 | | |
| Criminal Case Procedure | | |
| <i>Guiding Question: What are the legal procedures in a criminal law case?</i> | | |
| 4. Using pages 440-443 in your textbook, fill in the criminal trial time line below, describing the main points in each stage. Be sure to use the following words in your descriptions: <i>prosecution, plea bargaining, indictment, arraignment, cross-examination, acquittal, sentencing</i> | | |



The McDonald's Case

We've all heard the story of the McDonald's coffee burning a woman and her suing over it. The following document discusses the details of that case and the eventual outcome.

Stella Liebeck of Albuquerque, New Mexico, was in the passenger seat of her grandson's car when she was severely burned by McDonalds' coffee in February 1992. Liebeck, 79 at the time, ordered coffee that was served in a Styrofoam cup at the drive through window of a local McDonalds.

After receiving the order, the grandson pulled his car forward and stopped momentarily so that Liebeck could add cream and sugar to her coffee. (Critics of civil justice, who have pounced on this case, often charge that Liebeck was driving the car or that the vehicle was in motion when she spilled the coffee; neither is true.) Liebeck placed the cup between her knees and attempted to remove the plastic lid from the cup. As she removed the lid, the entire contents of the cup spilled into her lap.

The sweatpants Liebeck was wearing absorbed the coffee and held it next to her skin. A vascular surgeon determined that Liebeck suffered full thickness burns (or third-degree burns) over 6 percent of her body, including her inner thighs, perineum, buttocks, and genital and groin areas. She was hospitalized for eight days, during which time she underwent skin grafting. Liebeck, who also underwent debridement treatments, sought to settle her claim for \$20,000, but McDonalds refused.

During discovery, McDonalds produced documents showing more than 700 claims by people burned by its coffee between 1982 and 1992. Some claims involved third-degree burns substantially similar to Liebecks. This history documented McDonalds' knowledge about the extent and nature of this hazard.

McDonalds also said during discovery that, based on a consultants advice, it held its coffee at between 180 and 190 degrees Fahrenheit to maintain optimum taste. He admitted that he had not evaluated the safety ramifications at this temperature. Other establishments sell coffee at substantially lower temperatures, and coffee served at home is generally 135 to 140 degrees.

Further, McDonalds' quality assurance manager testified that the company actively enforces a requirement that coffee be held in the pot at 185 degrees, plus or minus five degrees. He also testified that a burn hazard exists with any food substance served at 140 degrees or above, and that McDonalds coffee, at the temperature at which it was poured into Styrofoam cups, was not fit for consumption because it would burn the mouth and throat. The quality assurance manager admitted that burns would occur, but testified that McDonalds had no intention of reducing the "holding temperature" of its coffee.

Plaintiffs' expert, a scholar in thermodynamics applied to human skin burns, testified that liquids, at 180 degrees, will cause a full thickness burn to human skin in two to seven seconds. Other testimony showed that as the temperature decreases toward 155 degrees, the extent of the burn relative to that temperature decreases exponentially. Thus, if Liebeck's spill had involved coffee at 155 degrees, the liquid would have cooled and given her time to avoid a serious burn.

McDonalds asserted that customers buy coffee on their way to work or home, intending to consume it there. However, the company's own research showed that customers intend to consume the coffee immediately while driving.

McDonalds also argued that consumers know coffee is hot and that its customers want it that way. The company admitted its customers were unaware that they could suffer third degree burns from the coffee and that a

statement on the side of the cup was not a "warning" but a "reminder" since the location of the writing would not warn customers of the hazard.

The jury awarded Liebeck \$200,000 in compensatory damages. This amount was reduced to \$160,000 because the jury found Liebeck 20 percent at fault in the spill. The jury also awarded Liebeck \$2.7 million in punitive damages, which equals about two days of McDonalds' coffee sales.

Post-verdict investigation found that the temperature of coffee at the local Albuquerque McDonalds had dropped to 158 degrees Fahrenheit.

The trial court subsequently reduced the punitive award to \$480,000 -- or three times compensatory damages -- even though the judge called McDonalds' conduct reckless, callous and willful.

No one will ever know the final ending to this case.

The parties eventually entered into a secret settlement which has never been revealed to the public, despite the fact that this was a public case, litigated in public and subjected to extensive media reporting. Such secret settlements, after public trials, should not be condoned.

Here is some of the evidence the jury heard during the trial:

- McDonald's operations manual required the franchisee to hold its coffee at 180 to 190 degrees Fahrenheit.
- Coffee at that temperature, if spilled, causes third-degree burns in three to seven seconds.
- The chairman of the department of mechanical engineering and biomechanical engineering at the University of Texas testified that this risk of harm is unacceptable, as did a widely recognized expert on burns, the editor-in-chief of the Journal of Burn Care and Rehabilitation, the leading scholarly publication in the specialty.
- McDonald's admitted it had known about the risk of serious burns from its scalding hot coffee for more than 10 years. The risk had repeatedly been brought to its attention through numerous other claims and suits.
- An expert witness for the company testified that the number of burns was insignificant compared to the billions of cups of coffee the company served each year.
- At least one juror later told the Wall Street Journal she thought the company wasn't taking the injuries seriously. To the corporate restaurant giant those 700 injury cases caused by hot coffee seemed relatively rare compared to the millions of cups of coffee served. But, the juror noted, "there was a person behind every number and I don't think the corporation was attaching enough importance to that."
- McDonald's quality assurance manager testified that McDonald's coffee, at the temperature at which it was poured into Styrofoam cups, was not fit for consumption because it would burn the mouth and throat.
- McDonald's admitted at trial that consumers were unaware of the extent of the risk of serious burns from spilled coffee served at McDonald's then-required temperature.
- McDonald's admitted it did not warn customers of the nature and extent of this risk and could offer no explanation as to why it did not.

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LESSON 1 | CIVIL LAW

PROCESSING ACTIVITY

BRIEFING THE CASE: *Liebeck v. McDonald's*

Directions: The *Journal of Consumer and Commercial Law* printed an article about the product liability lawsuit between Stella Liebeck of Albuquerque, New Mexico, and McDonald's. You can find an article about the case by typing *Liebeck v. McDonald's* into a search engine. This civil trial made headlines in 1994. You are going to "brief" the case.

Note: "Briefing a case" means that you are going dig out the issues surrounding the case, the law(s) that were applied, and the outcome of the case for reference and review.

| | |
|---|--|
| 1. Who was the plaintiff in the case? | |
| 2. Who was the defendant in the case? | |
| 3. What are the facts of the case? What happened to the plaintiff that made her sue for damages? Be specific. | |
| 4. How much was the plaintiff asking for damages and suffering? | |
| 5. What was some of the evidence brought against the McDonald's corporation by Liebeck's attorney? | |
| 6. How did McDonald's argue against these allegations? | |
| 7. What was the verdict, or the outcome, of the case? | |

Criminal Law

Criminal laws are laws that make certain actions a crime. These laws come from all three levels of government (federal, state, and local) and can be found in statutes, regulations, and sometimes in state constitutions.



There are two general levels of crimes. Felonies are serious crimes that normally have a punishment of more than a year in jail. Misdemeanors are less serious crimes where the penalty is usually less than a year in jail or even just a fine. A law that makes it a crime to do something usually says whether violating the law will be considered a felony or a misdemeanor. Felonies and misdemeanors are also divided into classes depending on how serious they are.



In a criminal trial, the question is always, —“Did this person commit a crime?” The government is always on one side of the case, charging someone with a crime. The person accused of the crime, called the defendant, is always on the other side. The defendant is either found innocent of the crime and is acquitted, or he or she is found guilty and is sentenced with a fine or jail time.

Civil Law



Here’s a basic rule of thumb: If it’s not criminal, it’s civil! Civil laws involve a wide range of subjects such as property, divorce, contracts, wills, personal injury, bankruptcy, employment, agriculture, and taxes. For this reason, there are many more civil laws than criminal laws.

Civil laws usually help settle disagreements between people. People may disagree over things like rights to property, custody of children in a divorce, or what a contract says. The two sides in a civil case each get to tell their side of the story. The judge or jury decides what the facts are and what the remedy, or solution, should be.

Sometimes, like criminal cases, civil cases involve someone who has injured someone else. Many injuries, such as accidents, are not caused by a crime. The person who caused the accident and the person who was hurt must come to an agreement about how the injured person can be compensated for his or her loss.

Very often, civil law does not involve a problem or disagreement at all. If someone wants to make a will or draw up a contract to sell something, there are civil laws that say how those things should be done.



Name: _____ Date: _____ Period: _____

Criminal vs. Civil Law

Directions: Identify each scenario as either as a “civil” or “criminal” law case. Then explain why it is this type of law.

Scenario 1: A hospital patient dies. An investigation reveals that, because of sloppy record keeping, the patient was given the wrong dose of medication.

Law: _____

Why?: _____

Scenario 2: A tenant is three months behind in paying her rent. The landlord uses his key to enter the tenant’s apartment when she is not home. He takes money out of her desk drawer to cover the back rent.

Law: _____

Why?: _____

Scenario 3: George gets into an argument with his neighbor Walter, complaining that Walter’s icy sidewalk is dangerous for pedestrians. Walter gets angry and pushes George, who falls down on Walter’s icy driveway and breaks his hip.

Law: _____

Why?: _____

Scenario 4: An elderly millionaire dies, and in her will leaves all her money to her butler. The millionaire’s children claim that the will is invalid because the butler forced their mother to make him her heir.

Law: _____

Why?: _____

Scenario 5: A woman gets a cup of coffee from a drive through restaurant. She places the cup in her lap while driving out of the parking lot. Seconds later, the coffee split on her lap causing third degree burns. The woman files a lawsuit against the restaurant.

Law: _____

Why?: _____

Scenario 6: A man was caught on tape robbing a gas station. He was arrested, brought to trial, and found guilty of burglary. He was sentenced to ten years in prison and fine.

Law: _____

Why?: _____

Directions: Read the information about Criminal and Civil Laws and fill in the chart below.

What is your own example of **Criminal Law**?

Define **Felony**:

Define **Misdemeanor**:

What is your own example of **Civil Law**?

Military Law

The U.S. Constitution gives Congress the power “to make Rules for the Government and Regulation of the land and naval Forces.” Congress did this by enacting the Uniform Code of Military Justice (UCMJ), which is a set of criminal laws that apply to people in the military. The UCMJ also lists the procedures for conducting a military trial and explains what punishments are allowed.

The military justice system is entirely separate from the civilian system. It is designed for the special needs of the military, so the UCMJ contains some laws that would not be needed for regular citizens. For example, it includes laws against leaving the military without permission, showing disrespect to a superior officer, and failing to obey an order. All members of the military are subject to the military justice system.

Juvenile Law

Criminal laws apply to everyone. But when a person under age 18 commits a crime, most states have a system of juvenile justice that deals with the case. The juvenile justice system is usually more flexible than the adult justice system. It allows a judge to look at many factors in a child’s life when deciding what the consequences for committing a crime should be. The juvenile system is different because, as a society, we believe that young people sometimes make bad choices that they would not make if they were more mature. The juvenile system offers more chances for young people to learn from mistakes without being negatively affected for the rest of their lives.

Outside the juvenile justice system, there are other kinds of laws that affect people under 18. Some of these are laws targeted at young people, like curfew laws or laws about school attendance. Other laws have been passed in order to protect children from abuse. Most states have a whole set of laws that describe what happens when an abused child is removed from his or her home. There are also laws about adoption, foster care, and special health and education programs for children.



A military trial is called a court-martial. The Manual for Courts-Martial explains how military trials must operate and gives details about the laws in the UCMJ. The manual is actually an executive order signed by the president.



Judge's-eye view of a typical courtroom

Constitutional Law

The United States Constitution is often called “the supreme law of the land.” That means no law in the country can violate the rules, laws, and rights set forth in the Constitution. Some parts of the Constitution give specific laws that apply everywhere in the United States. For example, if someone commits a crime in one state and then flees to another state, the Constitution allows the criminal to be extradited, or sent back, to the state where the crime was committed.

Other parts of the Constitution either authorize (allow) types of laws that may be passed or forbid (ban) certain types of laws. For example, the Constitution allows Congress to pass laws about how business is

conducted across state lines. The Constitution forbids Congress from passing laws that limit peoples’ freedom of religion. The bottom line is that no law can be made in the U.S. unless the Constitution allows it to be made.

Each state also has its own constitution that works the same way as the U.S. Constitution, but only applies to that state. Many laws in your state come from your state’s constitution and do not apply outside your state. Even so, laws in state constitutions must not violate the U.S. Constitution.

When a soldier failed to return to base after going on leave, he was charged and brought to trial for being AWOL (Absent Without Official Leave).

- a. Military Law
- b. Juvenile Law
- c. Civil Law
- d. Criminal Law

A man was caught on tape robbing a gas station. He was arrested, brought to trial, and found guilty of burglary. He was sentenced to 10 years in prison and a fine.

- a. Military Law
- b. Juvenile Law
- c. Civil Law
- d. Criminal Law

The Smith family has decided to adopt their foster child, Anna. They work with their state adoption agency to complete all of the necessary paperwork.

- a. Military Law
- b. Juvenile Law
- c. Civil Law
- d. Criminal Law

Julie was pulled over by the police at 2:00am and was charged with breaking the curfew law in her town. She was fined and released back to her parents.

- a. Military Law
- b. Juvenile Law
- c. Civil Law
- d. Criminal Law

A married couple decides to get a divorce. They disagree over who gets what. A judge hears both sides and makes a decision about how their property should be divided.

- a. Military Law
- b. Juvenile Law
- c. Civil Law
- d. Criminal Law

Karen ordered an iPod off the internet and paid with her credit card, but she never received the order. The seller is refusing to refund her money, so she takes the matter to court.

- a. Military Law
- b. Juvenile Law
- c. Civil Law
- d. Criminal Law