

HANDOUT 1: Introduction to the Civil Court

Civil law involves cases where there are private disputes between individuals or parties that cannot be resolved outside the court system. They do not involve or affect other members of society as in criminal law.

Torts, contracts and the law of negligence are integral parts of civil law. These are defined below:

- *Tort*: An act of the legislature declaring, commanding, or prohibiting something; a particular law enacted and established by the will of the legislative department of government
- *Contracts*: An agreement between two or more persons which creates an obligation to do or not to do a particular thing
- *Negligence*: The omission to do something which a reasonable person, guided by those ordinary considerations which regulate human affairs would do, or the doing of something which a reasonable and prudent person would not do

The burden of proof in civil cases is on the balance of probabilities which means that it is more probable that one side is correct. The judge or jury listens to both sides then they weigh the evidence and make a decision.

Civil Court

A civil case is started by one party filing a claim in the court against the other party and asking the court to decide the outcome. This case would read differently from a criminal one in that it would be the Plaintiff (Jones) versus the Defendant (Smith). The plaintiff is the person starting the action or the one suing. The defendant is the person who allegedly caused the problem.

A civil jury has eight members. The decision of this jury does not have to be unanimous, as long as 75% or 6 out of 8 jurors agree after at least three hours of deliberation. The penalties are usually monetary in the form of a damage award.

Civil cases with a monetary claim of \$25,000 or less are heard in Small Claims Court. Cases with a claim of over \$25,000 are heard in the Supreme Court. The majority of civil cases are settled out of court.

Types of Civil Cases

- Contract
- Divorces
- Custody
- Contested wills and estates
- Personal injury



Name: _____ Block: _____ Date: _____

HANDOUT 2: WHAT DO YOU KNOW ABOUT CIVIL LAW?

1. What are civil laws?



2. What do civil cases involve?

3. Do civil cases always affect the whole of society negatively?

4. List four types of civil disputes.

5. What does the court call the person who is suing? and defending?

6. Write "True" or "False" on the lines provided.

_____ A civil case starts when one person files a complaint with the court. That person is called the defendant.

_____ The case would be written as Plaintiff (Jones) versus Defendant (Smith).

_____ The burden of proof in a civil case is on the balance of probabilities which means that it is more probable that one side is right.

_____ The penalty in a civil case is imprisonment rather than a monetary award in the form of damages.

_____ Claims of \$10,000 or less are heard in Small Claims Court.

7. How many jurors sit on a civil jury? 8 or 12? (circle one)

8. Do all the members of a civil jury have to make the same decision? Explain.

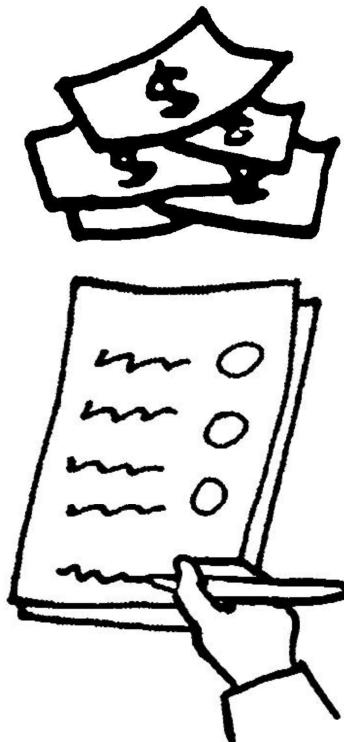
9. Name two courts that deal with civil cases?

HANDOUT 3: Examining a Civil Case

George had just been hired for his very first summer job. He had just turned 16. He was trying to decide how he was going to spend the money he was going to earn. As he was looking through the newspaper he came across an advertisement that said, "Used Bicycles for Sale."

He thought that this sounded like a great way to spend his money as he had always wanted a mountain bike. When George got to the store he discovered that he didn't have enough money; however, he knew that he would have enough by the end of the summer.

The storeowner had George sign a contract saying that he would pay off the bicycle by the end of the summer. Unfortunately George was laid off from his job and he could not afford to pay the store-owner for the bicycle. He did not abide by their contract.



Consider the following questions:

1. What do you think will happen to George?

2. What do you think would happen if this case goes to court?

3. What would happen if George gave the bike back?

HANDOUT 4: Civil Law vs. Criminal Law

Civil cases differ from criminal cases in a number of ways:

- Parties Involved
 - Do you see a connection between your feelings and views and government laws and policies? Why or Why not? Explain your answer in detail.
 - In a criminal case, the Crown or the government in the name of Regina is charging the accused with a crime. The style of cause would read Regina vs. Lee for example.
 - In a civil case, one party is suing the other parties. Either party could be an individual, a company or the government. The party suing is called the Plaintiff and the party being sued is called the Defendant. The style of cause would read Nolette vs. Leung.
- Reason for the Case
 - In a criminal case, someone has broken the law and is being charged with an offence. Most offences are in the Criminal Code of Canada. Other offences may be in other pieces of federal or provincial legislation.
 - In a civil case, the parties are involved in a dispute and cannot come to an agreement. They may be suing the other for the repayment of debt, breach of a contract, damages incurred because of non-performance or for personal injuries suffered.
- Pre-Trial
 - In serious criminal cases, a preliminary inquiry is held in Provincial Court before the case is put over for trial. The Crown will present all its evidence and the accused is entitled to cross-examine the Crown witnesses. The accused does not have to present any evidence at this time.
 - In a civil case, the parties are examined before trial by the other side in a process known as discovery. There may also be pre-trial mediation and trial conferences in the hope of settling or making the trial more streamlined.
- Trials
 - In criminal cases, a trial may be by a judge alone or by a judge and jury. If there is a jury there are 12 jurors who all must decide guilty or not guilty. If they cannot decide it is called a hung jury and a new trial will take place. The jury does not take part in the sentencing of the convicted offender.
 - In civil cases, a trial is usually by judge alone but the parties may request a jury. The jury has 8 members and only 6 out of 8 have to decide that the

defendant is liable. The civil jury also gives its recommendation on how much money should be paid in the case if the plaintiff is successful.

- Burden of Proof
 - In a criminal trial, the finding of guilt or innocence must be beyond a reasonable doubt. The judge or jury must be sure that the accused is the one who committed the crime.
 - In a civil trial, the burden of proof is on the balance of probabilities which means that it is more probable that one side is correct. The judge or jury listen to both sides then they weigh the evidence and make a decision.
- Judgment
 - In a criminal trial, the judge is responsible for sentencing the convicted offender and will follow guidelines for sentencing set out in the Criminal Code of Canada. Although the judge can order a fine or restitution it is more likely that the sentence is time spent on probation or in time spent in jail.
 - In a civil trial, the judge taking into account the jury's recommendation is responsible for setting the damages in a case. Civil cases are about the amount of money paid by one party to the other.
- Records
 - In a criminal case, the convicted offender has a criminal record.
 - In a civil case, there is no criminal record. In some cases the settlement could affect the future business and personal interests of the party who is found liable.

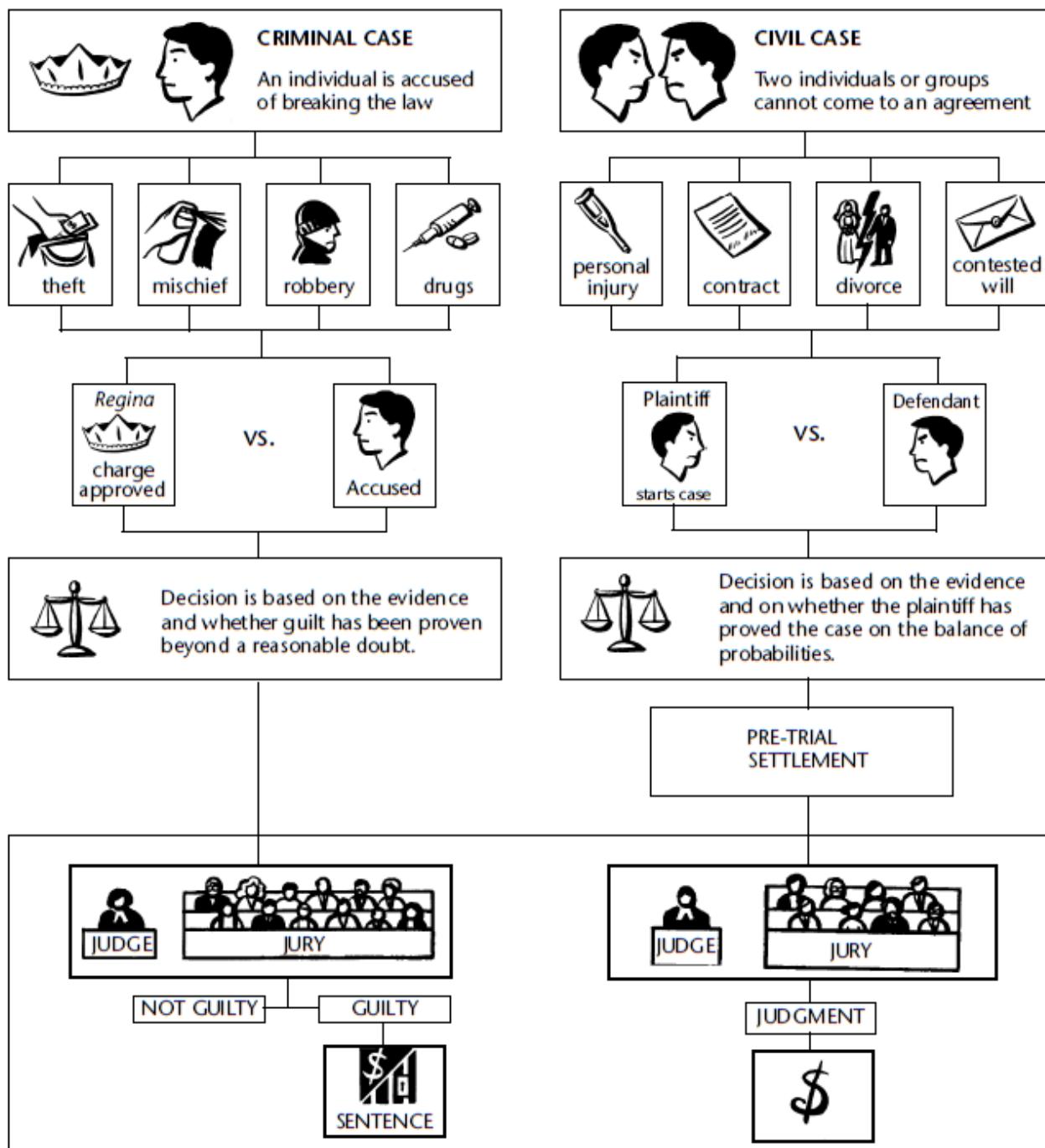
Civil and Criminal Counterparts

Some situations may result in cases being heard both in a criminal proceeding and in a civil proceeding. An example of this would be a car accident where the person at fault could be charged with dangerous driving and that person could also be sued for damages to pay for the injuries suffered.

The civil counterparts of criminal cases are as follows:

Criminal Cases	Civil Counterparts
Theft	Conversion
Attempted murder	Battery
Fraud	Breach of contract
Criminal negligence	Personal injury
Assault	Personal injury
Mischief	Damages

Criminal Law vs. Civil Law



The vast majority of criminal and civil cases are heard by a judge alone.
Cases with a jury are in the minority.

Name: _____ Block: _____ Date: _____

HANDOUT 5: Civil or Criminal? You Decide!

Decide whether the situation could lead to a criminal or civil case or both. Refer to Handout 4: Civil vs. Criminal Law Chart.

Example: Hansel and Gretel stole candy from the witch's house.

Answer: Criminal (Theft) and Civil (Conversion)

1. Peter Rabbit stole carrots from Mr. McGregor's garden.
2. The Queen gave Snow White a poisonous apple that she knew was poisonous.
3. The bean seller sold Jack seeds that the seller knew would not produce beans.
4. Papa Bear and Mama Bear no longer wanted to be married.
5. The second little pig didn't complete building the other pig's house as he said he would.
6. Humpty Dumpty fell off the wall that the Queen's men built because it collapsed.
7. Cat Woman scratched Batman with her claws.
8. Goldilocks broke Baby Bear's chair.

Give three examples of each type of case.



Criminal

Civil

Name: _____ Block: _____ Date: _____

HANDOUT 6: Criminal and Civil Law: Review

Use Handout 4: Civil vs. Criminal Law chart to find the answers

1. What is the definition of a "criminal case"?

2. What is the definition of a "civil case"?

3. Who approves the charge in a criminal case? _____

4. Who starts the proceedings in a civil case? _____

5. How many jury members are there in a criminal trial? _____

6. How many jury members are there in a civil trial? _____

7. What is the difference between proof "beyond a reasonable doubt" and proof "on the balance of probabilities"?

8. Identify these cases as civil or criminal. Write your answer next to each case.

- a. Break and enter
b. Divorce
c. Personal injury

- d. Impaired driving
e. Possession of drugs
f. Contract dispute

9. Match these criminal offences with their civil counterpart.

Criminal

- a) Assault
b) Theft
c) Attempted murder
d) Mischief
e) Fraud
f) Criminal negligence

Civil

- 1) Conversion
2) Battery
3) Breach of contract
4) Personal injury
5) Personal injury
6) Damages