Notes:

Test Tip: **Make a chart of plaintiff and defendant evidence**

Federal vs. State Law

* Federal Power is limited to areas under power of central government through the constitution.
* When Congress acts within its constitutional authority its laws supersede any state.
* Each State has own laws, and vary a lot from state to state.

Sources of Law

Constitutions:

* + Federal written in 1789, 7 articles, 27 amendments.
  + It’s the supreme law of the land and guarantees rights.
  + State creates the structure for its state government, containing bill and how laws can be enacted.
* Statues:
  + Work of legislators
  + Federal statues are enacted in congress through majority votes in the House and Senate. If president vetoes Congress can 2/3 vote in each chamber.
  + States follow same except Nebraska (uniceramal).
* Regulations and Ordinance:
  + Ordinance: piece of legislation enacted by a municipal authority
  + Federal: executive departments and administrative agencies
  + State: have political subdivisions and often derive from the constitution

**Fact->Issue->Rule->Analysis->Conclusion**

Judicial Decisions: The Common Law

* Law is also made by courts
* Common law is the expression of courts
* Now, common law is the body of precedents from judges and in the written opinions of appellate courts
* Common law is from state and federal courts so each case has precedent, eventually it moved westward and was in legisture.
* Common law can be changed in court and varies in state.
* Civil law is from Rome and most prevalent, common from England.
* Civil different from common as judges are not expected to make law, merely apply to it.

Judicial Decisions: Equity

* Criminal (Prosecutions by state)
* Civil (Actions of one person against another for money etc)
* Common law is now for civil matters
* Common law separated into two branches, law and equity.

Definitions:

* Plaintiff: person who files the complaint in a civil lawsuit
* Appellant: party bringing the appeal
* Facts: All legally significant information
* Procedural History: What happened in trial court or immediate appellate court
* Issue: Question the appellate court must answer to resolve disputes
  + Interplay between facts and applicable law
* Holding: Courts response to the issue question
* Reasoning: The why (relies on precedent)
* Judgement: Result of the case (who won and what relief)
* Evaluation: Be critical of whether it was right result. Is it logical, consistent, unused facts
* Tort: The defendant caused some harm to plaintiff
* Contract: Defendant broke a binding agreement with plaintiff
  + Both types demand relief

Civil Procedure:

* How to be sued and to sue
* Rules the parties and courts follow
* Focusing on Federal
* Dictate who can seek justice
* Dictate resources you need to be successful
* Dictate how hard/easy it is to prevail

Choosing a system of procedure

* Fairness
  + Truth
  + Justice
  + Access to the courts
* Efficency
* Consistency
* Credibility (to litigants and world at large)
* Closure

Federal Rules of Civil Procedure (FRCP):

* Made by Supreme Court
* Substance law: Did I do something unlawful?
  + The laws that define the rights and obligations of people and organizations. Substantive law includes laws that define crimes, set punishments, and define the rights and responsibilities of citizens
* Procedural law: What information can I get?
  + The rules that govern how legal cases are processed and how justice is administered. Procedural law ensures fairness, efficiency, and consistency in the legal system. It includes rules about evidence, jurisdiction, pleading, and more.

The Federal Civil Lawsuit:

* Forum Selection: Where can the plaintiff file suit?
  + Court must have jurisdiction over defendants.
  + Court must have jurisdiction over the subject matter of the case
* Jurisdiction:
  + Subject Matter Jurisdiction
    - Federal court must have jurisdiction over 1 claim.
    - Case raises a federal question
    - Important case involving parties from different states
      * Diversity jurisdiction
      * More than $75,000
      * No home court advantage
        + **Example**:

A case about patent infringement (federal law) must be heard in federal court.

A lawsuit between a California resident and a New York resident, where the damages sought exceed $75,000, can be heard in federal court under diversity jurisdiction.

* + Personal Jurisdiction:
    - Federal District Court has only over defendant who have minimum contacts with the state where court is located.
      * **Examples where personal jurisdiction exists:**
      * **A local business being sued**: If a business is located in Texas and someone sues the business in a Texas court, the court has personal jurisdiction because the business operates in Texas.
      * **A resident being sued in their home state**: If someone lives in California and is sued in a California court, the court has jurisdiction because the person resides there.
      * **Someone committing a wrongful act in another state**: If a person from New York drives into New Jersey and gets into a car accident there, a New Jersey court would likely have personal jurisdiction because the accident occurred within New Jersey.
      * **Examples where personal jurisdiction doesn’t exist:**
      * The most important exception is if the defendant does not have **sufficient "minimum contacts"** with the state where the wrongful act occurred. Even if a wrongful act happens in a state, if the defendant has no significant connection to that state (no business there, no visits, no intent to interact with residents of that state), it may be considered unfair to assert personal jurisdiction.
      * **Example**:
      * A New York resident accidentally causes a car accident while driving through Iowa, but they have never visited Iowa before, don’t do business there, and were simply passing through. The court might decide there isn’t enough connection to justify personal jurisdiction in Iowa, especially if the person doesn’t regularly visit or conduct activities in that state.

Timeline:

1. Complaint: written statement containing factual legal remedy and names of parties
2. Response:
   1. Default (None)
   2. Motion to dismiss (If complaint is defective)
   3. Attack (Counterclaim or bring other defendant \*blame someone else)
3. Discovery:
   1. Initial disclosures
   2. Interrogatories
   3. Document requests
   4. Request for admission
   5. Depositions
4. Motion for Summary Judgement
   1. Other side (usually defendant) to end case if other has insufficient evidence)
5. Setting the time
6. Selecting the Jury
   1. Plaintiff usually benefits from jury
7. The Trial
   1. Motion for Judgement as a matter of law
      1. End case before jury starts deliberating if other side has insufficient evidence.
         1. Only after plaintiff share all evidence

FRCP 48

* Number of Jurors: 6-12
* Verdict: Must be unanimous

Motion to Dismiss:

* Asking to throw out case before it starts
* Failure to state a claim
  + Needs a legal claim that is not vague
* Lack of jurisdiction
* Needs to be held in appropriate court

Excerpts from Federal Rules of Civil Procedure

* Rule 8: General Rule of Pleading
  + Short plain statement of claim showing that the pleader is entitled to relief
  +  This rule explains what a **complaint** (the initial document that starts a lawsuit) must include. A complaint must contain:
  + **(1) A short and plain statement of the grounds for the court's jurisdiction**: The plaintiff must explain why the court has jurisdiction to hear the case.
  + **(2) A short and plain statement of the claim showing that the pleader is entitled to relief**: The plaintiff must briefly explain the facts of the case and why they are entitled to some form of relief (e.g., compensation).
  + **(3) A demand for the relief sought**: The plaintiff must clearly state what they are asking for, such as monetary damages or a specific action from the defendant.
  +  **Rule 8(b) - Defenses; Admissions and Denials**:
  + This section explains what the **defendant’s answer** must include. When responding to a complaint, the defendant must:
  + **(1) State in short and plain terms their defenses** to each claim asserted.
  + **(2) Admit or deny the allegations**. The defendant must address each allegation made in the complaint, either admitting or denying it. If they do not have enough information to admit or deny, they must state that as well.
  +  **Rule 8(c) - Affirmative Defenses**:
  + This rule requires defendants to list any **affirmative defenses**. These are special legal defenses that could defeat the plaintiff’s claim, even if the allegations are true.
  + **Examples of affirmative defenses** include statute of limitations (the time to file the lawsuit has passed), res judicata (the matter has already been decided), or contributory negligence (the plaintiff is partly at fault for their injury).
  +  **Rule 8(d) - Pleading to Be Concise and Direct; Alternative Statements; Inconsistency**:
  + **(1) Each allegation must be simple, concise, and direct**. The rules encourage clarity and brevity in pleadings.
  + **(2) A party may set out two or more statements of a claim or defense alternatively or hypothetically**. This allows parties to present multiple theories or defenses even if they are not entirely consistent with each other.

Preponderance of evidence

* In a civil trial the party with more than 50% of evidence in his/her favor, wins.
  + In a civil lawsuit over a car accident, if the plaintiff provides enough evidence that it’s more likely than not that the defendant was at fault (even by a small margin), the plaintiff meets the burden of proof under the preponderance of the evidence standard.

3 Hurdles in a Lawsuit:

* Motion to Dismiss (FRCP 12): complaint is deficient
  + Solely on content of complaint
  + Assume complaint to be true
  + If no viable claim, case dismissed
  + Failure to state a claim upon which relief can be granted
  + Too vague
* Summary Judgement (FRCP 56): Plaintiff evidence is too weak before trial
* Motion for Judgement as a Matter of Law (FRCP 50): Plaintiff evidence is too weak at trial

Legally Conclusory: legal conclusion with no supporting facts.

* Saying "The defendant violated the plaintiff's constitutional rights" is legally conclusory if no facts are provided to show **how** the rights were violated. Simply stating a legal principle or conclusion doesn’t explain the connection between the facts and the law.

Factually Conclusory: Factual allegations that assume the existence of other facts

* Saying "The defendant was negligent" without explaining **what specific actions** constituted negligence (e.g., driving recklessly or failing to follow safety procedures) is factually conclusory. It’s a vague statement without details that would support a claim of negligence.

Plausibility: Not “is it possible.” Is it between possible and probable?

Genuine dispute: A reasonable jury could reach more than one conclusion.

Fact is material if it resolves any issue properly raised by the parties that could affect the outcome.

FRCP 50- Judgement as a matter of law

* Before Jury deliberates
* After plaintiff presents their case
* Could be possible if court incorrectly assessed what could be admissible at trial
* Or if witnesses or evidence is not presented at trial.

Spoilation: Destruction or alteration of evidence, failure to preserve property for another’s use as evidence in pending litigation.

Duty to Preserve: You can’t destroy or alter evidence (text, email, organization)

Yes+1 No= Sanction

* Y- Was ESI (Electronically Stored Information) Lost?
* Y- Should info have been preserved in anticipation
* Y- Did party fail to take proper steps?
* N- Can the missing ESI be restored or replaced?
* Y- Was the party who requested the lost ESI prejudiced by failure to preserve it?

Plausibility->Motion to dismiss

Genuine dispute by jury->Summary Judgement and JMOL

**Default judgement:** Needs intentional action

IRAC:

* Issue: What is the court being asked to decide?
* Rule: What rule(s) should the court use to decide the issue? (cite source of rule)
  + FRCP
  + Case Law
  + **Not plagiarism to take exact words from rule statements**
* Application: Apply the rule to facts of case
  + Consider both sides
* Conclusion: Decide how you think the court should decide the issue based on application.

Relevant Cases:

* Baxter v. Fugett
  + Provided a uniform standard for driving
  + Clarified that minors are held to same standard due to Highway Safety Conduct
* Scott v Harris
  + Deputy ramming into running car
  + Utilized video evidence
  + Tipped balance in favor of public safety
  + Released at summary judgement stage, based on apparent genuine dispute from jury but it was questionable.
* Freeman v Giuliani
  + Giuliani failed to provide to discovery obligations (FRCP 37)