

# Week 3 Notes

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## Standing and Location of trial

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### Standing

- You are able to prove that you personally were harmed or affected by the act of the defendant
- You cannot sue for something that doesn't directly affect you

### Location of the trial

- The location where the **Harm Happened**
- AA, CT resident, crash in Tennessee
  - AA pushes to move the location to Texas, their headquarters
  - CT resident moves to have the trial take place in Tennessee

## The Process of the Court

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### Filing and Serving a complaint

First a

### Discovery

- **Interrogatories** Written questions by the other side to gain a baseline and story of what happened from the other side
- **Deposition** Sworn Testimony recorded and transcribed by an official of the court outside of court

### Pretrial

- **Pretrial Conference**
  - Proposed evidence made to a judge from both sides, possibly resolving the case before they go to court
  - Judge can come up with a "fair resolution" in their opinion which can prevent the case from actually going to trial
  - 95% of civil cases settle before a verdict
- **Jury Selection**
  - Jury trials are decided by the parties involved
  - Voir Dire (jury selection Process)

- Peremptory challenge - dismissing a juror without cause (you have a limited number of these to use)
- For Cause Dismissal - dismissing a juror for cause (bias)

## The Trial

- Opening Statement
  - Present what you plan to prove at trial
  - Why the court should decide in your favor
- Evidence
  - Plaintiff needs to present evidence and make a case against the defendant
  - Judge decides what evidence is admissible for the jury's consideration
  - Evidence must be relevant to the issues being decided by the jury (prove or disprove claims)
  - Evidence Presented can be:
    - Tangible Evidence
    - Witness Testimony
    - Expert Witness (provide specialized knowledge and opinions that help jurors decide issues)
- Closing Arguments
  - Each attorney summarizes the evidence and tells the client's story in the most compelling way possible
- Jury Instructions
  - Deliberate for a verdict which specifies the finding and liability
  - A jury can award money damages in a civil case

## The Appeal

- A party may appeal the jury's verdict or any legal issue and motion to appeal
- Appeals go to the appellate courts

## Enforcing the Judgement

- If a plaintiff wins a jury award of damages, the defendant may not have assets or insurance to pay out the judgement
- Usually these factors are considered *before* a lawsuit is filed

## Alternative Dispute Resolution

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### Trials are Exhausting and Expensive

- Average litigation Attorney makes \$200/hr

- Litigation is Taxing on the plaintiff and defendant

## Alternative Dispute Resolution

- ADR describes any procedure other than the traditional judicial process
- There is no record (which is important for companies due to trade secrets)
- Mediation
  - Mediator Talks with the parties to help them reach a common ground
  - Advantages: few rules, customize process, parties control results (win-win)
  - Disadvantages: mediator fees, no sanctions or deadlines
- Arbitration
  - Binding
    - Arbitrator makes decision that's binding upon both parties
    - Often in Employment Contracts, Credit Cards, Cell Phones
    - Arbitrator should be "neutral 3rd party"
  - Non-Binding
    - Seldom used
  - Advantages: Streamlined Process, quicker decision, private process, less expensive
  - Disadvantages: Private process, *very difficult* to overturn award