**Civil Trial System**

-Summons

-Complaint

What should claim rep do?

-Answer

-Pleading

-Discovery

What should claim rep do?

**Jurisdiction and Venue**

State Court Systems, pg 8.6

Federal Court Systems, pg 8.7

**Starting the Claims Litigation Process**

Receiving the Summons and Complaint

-Contains plaintiff’s allegations, serves four functions:

1. To give notice
2. To reveal facts
3. To formulate legal causes of action
4. To state the damages sought

-A summons and complaint will be delivered via service of process

-Reviewing the summons and complaint

1. Identify the parties in the complaint
2. Check how service was accomplished

-Federal Rules of Civil Procedure

-Actual service

-Substituted service (constructive service)

1. Determine the time available to answer
2. Determine whether a statute of limitations applies (and whether it expired)
3. Verify the jurisdiction and venue are correct

**Defense Counsel and Civil Complaints**

Referring a lawsuit to defense counsel—not a one step process

1. Defense counsel selection
2. Transmittal form completion, pg 8.16
3. Insured notification
4. Litigation plan

Objectives:

1. defend the lawsuit at trial
2. settle the lawsuit
3. conduct additional investigation

Answering a Civil Complaint

1. Affirmative defenses
2. Counterclaim

Example:

1. Cross-claim

Example:

1. Third-party claim

-default judgement:

**Discovery in the Claims Litigation Progress**

-Rules of civil procedure

Five most commonly used methods of discover

1. Requests for production of documents
2. Interrogatories
3. Depositions

Purpose:

a.

b.

-party witness

-nonparty witness

1. Physical or mental exams
2. Admissions of facts not in dispute

**The Civil Trial Process**

Preparing for a Civil Trial

1. Trial strategy

-stare decisis

1. Pretrial motions
2. Motion to dismiss
3. Motion for summary judgement
4. Motion in limine
5. Pretrial conferences
6. Additional investigation

The civil trial process

1. Nonjury and jury trials
2. Jury selections

-voir dire

-peremptory challenge

1. Opening statements

-burden of proof

1. Introduction of evidence

-preponderance of evidence

1. Trial motions

-directed verdict

1. Summations
2. Jury instructions
3. Verdicts

**Posttrial Activities**

1. Court-initiated actions

-judgment notwithstanding the verdict

1. Appeal of verdict
2. Judgement enforcement

**Managing Litigation Expenses**

Creating a litigation plan

Creating a litigation budget

-flat fee

-phased fee

\*activities/tasks (pg 8.35)

Auditing legal bills-checklist on pg 8.36

Evaluating the litigation plan and counsel performance, helpful questions on pg 8.37