


Civil Actions



Lesson No. 13

ENV H 471
Environmental Health Regulation
Winter Quarter 2004

Lesson Overview

- ❖ Types of Civil Actions
- ❖ Process
- ❖ Rules of Evidence
- ❖ Rules of Testimony

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Lesson Overview



- ❖ Types of Civil Actions
 - Process
 - Rules of Evidence
 - Rules of Testimony

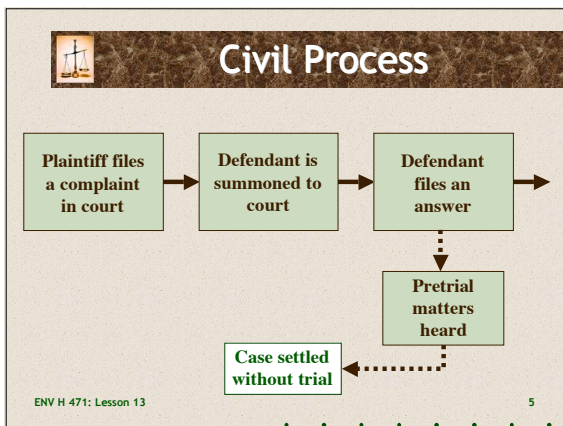
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Types of Civil Actions

- ❖ Torts
- ❖ Civil Penalties
 - Damages
 - Punitive Damages
- ❖ Injunctions
 - Restraining Orders
 - Injunctions

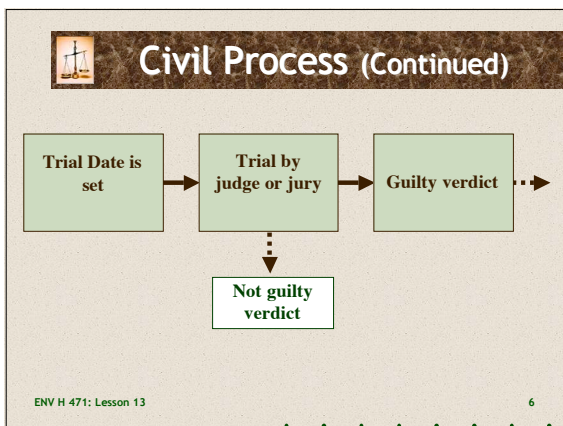
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Civil Process

```
graph LR; A[Plaintiff files a complaint in court] --> B[Defendant is summoned to court]; B --> C[Defendant files an answer]; C -.-> D[Pretrial matters heard]; D -.-> E[Case settled without trial];
```

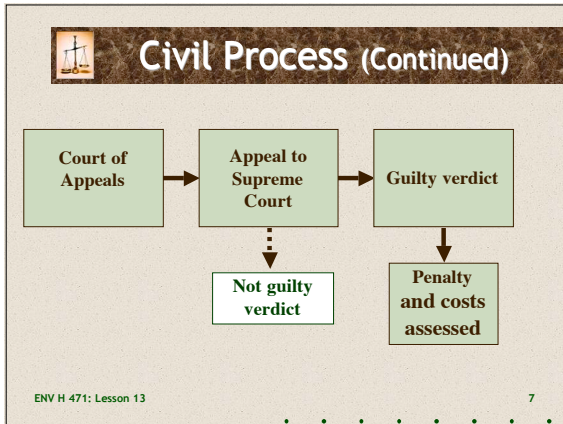
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Civil Process (Continued)


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graph LR; A[Trial Date is set] --> B[Trial by judge or jury]; B --> C[Guilty verdict]; B -.-> D[Not guilty verdict]; C -.-> E[...];
```

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- ❖ Material and relevant
 - ❖ Hearsay
 - ❖ Proof
 - Burden of Proof
 - Degree of Proof
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- ❖ Burden of Proof
 - On the plaintiff
 - ❖ Degree of Proof
 - Preponderance of the evidence
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Rules of Testimony

- ❖ Relevancy
- ❖ Credibility
 - Hearsay
- ❖ Authenticity
 - Chain of Custody


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Relevancy

- ❖ The testimony must relate directly to the issues involved in the controversy


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Credibility

- ❖ Witnesses offer the most credible evidence when:
 - Testifying, orally or in writing, under the solemnity of a court-administered oath
 - The declarant is present in court
 - An adversary has an opportunity to cross-examine the declarant about the truth of the matter asserted.

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Hearsay Testimony

Exceptions:

- ❖ Out-of-court admissions of a party-opponent
- ❖ Declarations against interest
- ❖ Spontaneous declarations
- ❖ Past recollections recorded
- ❖ Regularly kept business records
- ❖ Official written statements and certificates

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Authenticity

❖ Tangible items offered as evidence must be authenticated through

- testimony or
- certification


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Cases


❖ *United States v. L. O. Ward*,
100 S.Ct. 2636 (1980)


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 **U.S. v. L. O. Ward**


- ❖ **Facts & Arguments**
 - **Who's suing whom, for what?**
- ❖ **Court History**
- ❖ **Legal Issues**
 - **Why?**
- ❖ **Decision**
- ❖ **Concurrence and/or Dissent**
- ❖ **Application**

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 **Questions**




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 **Next Lesson**

Agency & Personal Liability


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Assignment for Lesson 14

- ❖ **Grad: Chapter 15 — The Public Health Officer's Responsibility and Liability, pp. 231-261.**
- ❖ **Statutes & Regulations:**
 - 15 USC 53 - Toxic Substances Control Act §2622-2623.
 - 5 USCA 73 - Government Organization and Employee - Political Activities. §§7323-7325
 - 18 USCA 11 - Bribery §201.
 - 18 USCA 93 -Lobbying §1913


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Assignment for Lesson 14

- ❖ **Required Readings:**
 - Reading #12 - *United States v. Ouelette*, 11 E.R.C. 1350 (1977).
 - Reading #38 - Treser CD, Brown SA. Agency and Personal Liability in Environmental Health, *Journal of Environmental Health*, January/February, 1991.
 - Reading #39 - Goldsmith, Francis J., Personal Tort Liability of Environmentalists.
 - Reading #40 - Sikora, Vincent A., A Sanitarian's Constitutional Rights, *Ohio Journal of Environmental Health*, June, 1980.

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Assignment for Lesson 14

- ❖ **Required Readings:**
 - Reading #41 - *Campbell v. Bellevue*, 85 Wn. 2d 1, 530 P2d. 234. [Group A]
 - Reading #42 - *In Re Grievance of Michael Yashko*, 415 A.2d. 1322 (1980). [Group B]
 - Reading #43 - *Nathanson v. United States*, 14 E.R.C. 1988 (1980). [Group C]
- ❖ **Due: Wednesday, March 17, 2004**

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