Lesson 13. 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
Lesson 13. Civil Actions

March 11, 2004

Types of Civil Actions

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

Civil Process

1. Plaintiff files a complaint in court
2. Defendant is summoned to court
3. Defendant files an answer
4. Pretrial matters heard
5. Case settled without trial

Civil Process (Continued)

1. Trial Date is set
2. Trial by judge or jury
3. Guilty verdict
4. Not guilty verdict
Civil Process (Continued)

- Court of Appeals
  - Appeal to Supreme Court
    - Guilty verdict
      - Not guilty verdict
    - Penalty and costs assessed

Rules of Evidence

- Material and relevant
- Hearsay
- Proof
  - Burden of Proof
  - Degree of Proof

Proof

- Burden of Proof
  - On the plaintiff
- Degree of Proof
  - Preponderance of the evidence
Rules of Testimony

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

Relevancy

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

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.
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

Authenticity

- Tangible items offered as evidence must be authenticated through
  - testimony or
  - certification

Cases

- United States v. L. O. Ward,
  100 S.Ct. 2636 (1980)
U.S. v. L. O. Ward

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

Questions

Next Lesson

Agency & Personal Liability
Assignment for Lesson 14

Grad: Chapter 15 — The Public Health Officer’s Responsibility and Liability, pp. 231-261.

Statutes & Regulations:
- 5 USCA 73 - Government Organization and Employee - Political Activities. §§7323-7325
- 18 USCA 11 - Bribery §201.
- 18 USCA 93 - Lobbying §1913

Assignment for Lesson 14

Required Readings:
- Reading #39 - Goldsmith, Francis J., Personal Tort Liability of Environmentalists.

Due: Wednesday, March 17, 2004