

Civil Procedure



Civil Procedure

Case is titled with the names of the litigants or people involved

(Macri vs Earnshaw)



Civil Procedure

Plaintiff is the person
who starts the case

- Does the Suing



Civil Procedure

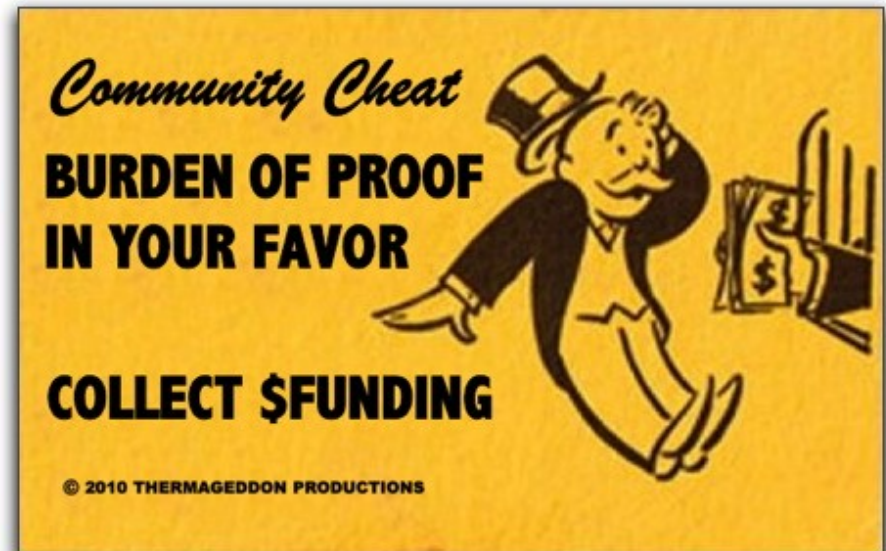
Defendant is the
person getting sued



Civil Procedure

Burden of Proof

- Is on the Plaintiff to prove that the defendant is in the wrong
- Is a balance of probabilities and not beyond a reasonable doubt
- Greater than 51% chance



Civil Procedure

Burden of Proof

- Cases are heard in Small Claims Court
- Greater than \$25 000 worth of damages is heard in Supreme Court

Civil Procedure

Steps in a Civil Case

Step 1

Statement of Claim

from the Plaintiff that outlines nature of the claim and the damages sought

- Must provide enough detail that the Defendant can prepare a defence

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Steps in a Civil Case

Step 2

Defendant can

- Ignore it which results in a default judgment
- File a Statement of Defence
- Settle out of Court

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Steps in a Civil Case

Step 3

Statement of Defence

- Sets out the defendant's version of the facts
- Defendant can also make a counter claim (legal costs)
- Or make a “third party claim cross”

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Steps in a Civil Case

Step 4

- Before trial the parties question each other in “Examination and Discovery” to examine evidence
- There are less rules around questioning than in a criminal trial

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Steps in a Civil Case

Step 5

- Each side is entitled to an “Examination of Documents” that will be used in the trial
- They must disclose before trial all documents that will be used

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Steps in a Civil Case

Step 6

Pretrial Conference

- Judge and parties review the case
- Judge offers opinion on outcome
- Promotes settlement out of Court