Loyola University of Chicago School of Law
Orientation: “A Civil Action” (Prof. Ho)

Instructions:

We will use the book “A Civil Action” by Jonathan Harr, as an introduction to the study of law. Although this is a novel not written for budding lawyers, it in fact introduces many concepts and terms covered in your first semester of class. Accordingly, it can be a useful introduction and segue to law school.

It is recommended that you first read the book in its entirety (as a novel) before beginning to complete this study guide. This two-step process is designed to easily transition you towards learning about legal concepts, as well as the critical reading and thinking that is not traditionally associated with reading novels, yet essential to success in law school.

The guide begins with primarily open-ended questions, followed by some legal terms used in the book that you should become familiar with. Although you can consult a legal dictionary and/or Google for these terms, the goal is for you to be able to define the terms in “plain English.” The last section of this study guide serves as a recap and reinforcement of concepts and terms covered in the prior sections. For all portions of this study guide, you should pay particular attention to terms and questions in bold italics, which will be given more emphasis in class discussion.

This study guide is intended to be a tool for you – it will not be collected, although you will be expected to be familiar with the material before our discussion.

Other Information/Resources

Orientation is intended to help you with your classes, including your first week of classes. However, for students eager for additional resources, here are a few that I personally recommend and why.

- *If you’re feeling very nervous about law school:* Andrew McClurg, 1L of a Ride: A Well Traveled Professor’s Roadmap to Success in the First Year of Law School (2013; available as Kindle e-book and/or for rent) (a very conversational tone that may make for easy reading)
- *If you do not have much prior knowledge of law and the legal system and are concerned that you are missing something (i.e. you were a science/engineering major):* GEORGE & SHERRY, WHAT EVERY LAW STUDENT REALLY NEEDS TO KNOW: AN INTRODUCTION TO THE STUDY OF LAW (2009)(chapters 2-3 provide background on the law and the legal system; in addition, chapter 1 provides an overview of law school and chapter 4 may be useful in understanding how to prepare for initial classes)
- *If you want one single book to help prepare you:* STROPUS & TAYLOR, BRIDGING THE GAP BETWEEN COLLEGE AND LAW SCHOOL: STRATEGIES FOR SUCCESS (2001) (chapter 1 provides an overview of law school and chapters 2-3 may be useful before the first day of class; the remainder will become more relevant as the semester (and your law career) progress).
**Questions**

**Starting the Civil Action**

What did Anne Anderson want? *(Ch: “The Lawyer” Part 5)*

What did she ask for in her complaint?
(Note: be sure to indicate whether this is the same as what she wanted)

What legal remedies was she seeking?

What legal claim(s) do you think she was asserting (select one of the following)?
(a) violation of a legal contract
(b) violating ethical obligations as a corporation
(c) violating a legal duty to not harm others

When can you sue someone; is timing at all relevant (and if so, how)?
For example, if someone slips and falls on your driveway, should they be able to sue you for
$5 million in purported damages 50 years after the incident? (hint: the book talks about a “statute
of limitations circa Ch: “The Lawyer” Part 5)

What do you think an “answer” is supposed to do (note: preparation of this document discussed Ch. Rule
11, Part 11 on) – how is it relevant to the complaint versus “discovery” and trial?

**Motions & rulings**

What are some examples of motions that were made during the course of the book?
(You should be able to name a few, but need not name all the motions)

*What do all* of the above examples (of motions) *have in common*?
(Regardless of the fact that they may relate to different subject matter)

In other words, *what is being requested in all of the cases*?

Who makes motions?

Can all parties make motions?

Can the Judge?

Who decides motions?

When are motions decided?
Do there appear to be strict time-lines, based upon the book?
**Discovery**

*When does discovery occur (in relation to other stages of a civil law suit)?*

For example, does it occur before or after the complaint?

Similarly, does discovery occur before, after, or simultaneous with the answer?

What do the following terms have in common: depositions, interrogatories, requests for documents?

**Trial**

*When does the trial happen (in relation to other events in a civil law suit)?*

*How is evidence presented at trial different than allegation(s) made in a complaint?*

What did each of the parties need to prove to “win”?

*If the jury had returned a verdict in Schlictmann’s favor (the opposite of what happened in the case), would this have necessarily resulted in a monetary award to the plaintiffs? Why or why not?*

*What were Facher and Keating asking when they requested the judge to “direct a verdict” in their clients’ favor?*

**What is a directed verdict?**

*When does it happen during the course of litigation?*

What appears to be the standard for governing when it is granted?

What basis did Facher and Keating have for their directed verdict motions?

Why could the jurors in this case not come back and just find the defendants guilty or innocent?

What were they supposed to do instead?

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1 You should note that the term “directed verdict” (abbreviation: DV) has now been superseded by the term “judgment as a matter of law” (abbreviation: JMOL). However, if you read older cases, these terms still exist.
**Post-trial**

**What is the process of appeal** and where does it end?  
(think about what Schlichtmann did after the jury verdict)

Note: Anne Anderson’s case was first filed in “Superior Court” (Ch. “The Lawyer” Part 6), but this was not the court in which Judge Skinner presided. **Was the move to Skinner’s court an appeal?**

What court did Schlichtmann appeal to (at the end of the book)?

Did this seem like the appeal was guaranteed, or something that could be denied?

- what is/are the standards that appeals courts use to decide whether to overturn a case?

- if a case was reversed, would the plaintiff have to start over from the beginning?  
  *(note: if the book doesn’t provide you a specific answer, consider whether this would seem to make sense)*

**What does res judicata mean?** (note: mentioned in Ch: “Blindman’s Bluff, Part 4)

Could Schlichtmann bring a new case (with the same plaintiffs) before a different judge if he could prove that Judge Skinner disliked him?

The EPA filed suit against Grace & Beatrice after Schlichtmann’s case was over. Do you think this was proper if Schlichtmann himself couldn’t bring another case?
Terms

NOTE: The list is organized in roughly chronological order; however, the last section contains terms that may appear at various stages of a law suit.

Background Terms

Plaintiff

Defendant

Cause of Action or Claim

negligent (or negligence)


tort(s)


tortfeasor; joint-tortfeasor

Beginning of a case

Complaint

answer

pleading(s)

statute of limitations (circa Ch. “The Lawyer” Part 5)

Pre-Trial

discovery

Summary judgment

Trial

evidence (and how it is different than an “allegation”)

prima facie case

“preponderance of evidence”

Post-Trial

“findings” (of fact)

motion to vacate the verdict; motion for a judgment notwithstanding the verdict (JNOV)

res judicata (note: Ch: “Blindman’s Bluff, Part 4) 2

Terms not tightly related to timing

Motion

ruling

2 You will likely learn in Civil Procedure that courts today use the word “claim preclusion.” However, older cases in Civil procedure as well as other classes may still use this term.
Re-Cap and Reinforcement:

Instructions: the following are a series of short questions designed to test your understanding of material in preceding parts of this worksheet. In addition, reviewing these before class would probably also be of benefit to you since they provide a quick test of your retention of some basic principles. These questions are in a variety of formats to enhance your learning of the material. However, be sure to note that even if a question only asks you to verify whether a statement is true or false, you should be prepared to explain why you think that is the correct answer.

1. The first legal document in a civil action is entitled a _____________.

2. Anne Anderson is one of the _____________(s) in the lawsuit depicted in “A Civil Action.”
   (legal identity)

3. The companies that Anne Anderson sues are referred to as ________________s.
   (legal identity)

4. If the _________ of limitations for a cause of action has passed, a suit can/can not (circle one) be brought.

5. The complaint contains which of the following?:
   (a) Evidence
   (b) Allegations
   (c) Proof
   (d) Facts
   (e) Motions

6. The formal legal response to the complaint is called an ________________.

7. A motion is a request that the court act ________________.

8. If the court grants a motion, the person who made the motion wins the entire case. True or False (circle one)

9. A motion may be filed by :
   (a) the judge
   (b) the plaintiff only
   (c) the defendant only
   (d) any party
   (e) any person

10. The difference between a motion and a pleading is that
    ____________________________________________________________________________

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11. Which of the following is/are pleadings?
   I. Complaint
   II. Answer
   III. Motion
   IV. Summary Judgment

   (1) All of the above
   (2) I only
   (3) I and II only
   (4) I and III only
   (5) III and IV only

12. When Schlichtman appeals the case, Anne Anderson et al, are referred to as
   1. plaintiffs
   2. defendants
   3. appellants
   4. appellees
   5. either appellants or appellees

13. The appeals court makes its own independent decision of the case, without giving any weight to
the decision of the trial court below. True/False (circle one)

14. If the appeals court agrees with the lower court, it _________ the ruling below.

15. By impleading Unifirst (circa Ch. “Orphans & Dogs” Part 5), Cheesman could avoid all liability,
and instead impose it on Unifirst. True/False (circle one)

16. Which of the following are methods of obtaining discovery in a civil litigation?
   (circle all applicable options)
   1. interrogatories
   2. subpoena
   3. deposition
   4. document request
   5. summary judgment

17. Every party has a right to a hearing by the U.S. Supreme Court.
   True/False (circle one)