

Question 1. What is the difference between criminal and civil cases?

Answer: Criminal cases are the substantive criminal rules that for the purpose of preventing harm to society, declares some conducts unacceptable and consequently prescribes the punishment to be imposed for such conducts. They are generally codified. Meanwhile, civil cases are bodies of laws that deal with private rights and remedies.

Question 2. What is the nature of civil litigation?

Answer: A civil litigation takes place when one goes to the ordinary courts for the resolution of a conflict between two or more persons as to their respective legal rights and duties.

Question 3. Into how many groups can civil litigation be classified?

Answer: They can broadly be classified into three groups, disputes concerning family relations, disputes concerning proprietary relations and disputes concerning personal relations.

Question 4. What can give rise to a civil action in court?

Answer: A breach of an obligation or an infringement of the right of the other party.

Question 5. Must an investigation be carried out in a civil case?

Answer: No, investigations are not necessary in civil cases before they are sent to court.

Question 6. How are civil courts organized?

Answer: The civil courts start with the customary or the Akali court, the court of first Instance, the High Court, the court of Appeal and the Supreme Court.

Question 7. What are their various jurisdictions?

Answer: The Jurisdiction of the customary court is a claim not exceeding Sixty Nine Thousand Two Hundred Francs, for the Court of First Instance the claim must not be more than Ten Millions and for the High Court, the claim should be above Ten Millions.

Question 8. How do we institute civil actions?

Answer: For the court of First Instance, an action can be commenced by way of a simple statement of claim, in the High Court; it is by way of a writ of summonse.

Question 9. How do we identify the cause of action?

Answer: This is by First of all identifying the specific right infringed, then the subject area, before proceeding to know what the specific cause of action is.

Question 10. Must we first identify the parties to the suit?

Answer: Absolutely, it is extremely important to identify the plaintiff and the defendants so as to know whom you are suing.

Question 11. Can one appear for another in a civil action?

Answer: Yes, as opposed to criminal actions, a person can appear on behalf of the other person in a civil action. However, the person appearing must be given the authority by way of a power of attorney.

Question 12. Can registered Association, companies and corporate bodies be sued?

Answer: Yes, they can. This is because they all have a legal personality and they are called moral persons in law.

Question 13. Before commencing a civil action, what are the things one should look out for?

Answer: You must firstly consider the relevant law, the possible parties, the choice of remedies, the cost of the action, the statute of limitation and lastly immunity of any kind in relation to the defendant.

Question 14. When does a civil action commence?

Answer: Generally a civil action is deemed to commence when the defendant had been served with the statement of claim or a writ of summonse and he has taken his plea of being liable or not.

Question 15. What is the standard of proof in civil cases?

Answer: The Standard of proof in civil cases is predicted on prove on a balance of probability as opposed to criminal cases where the standard of proof is based on proving beyond all reasonable doubts.

Question 16. Where are the High Courts supposed to be?

Answer: High courts are generally supposed to be located at the head quarter of each Division of this Country and the Court of Appeal, at each regional head quarter.

Question 17. What are the various ways to commence an action in the High Court?

Answer: The various ways are, by a writ of summonse, a petition, originating summonse and by application. Each of these can be used as each case demands.

Question 18. How do you bring the parties to a suit to court?

Answer: The other party can be brought to court by duly serving the statement of claim or writ on him, together with the hearing notice through the services of a bailiff.

Question 19. If you cannot find the other party, what can you do?

Answer: If you cannot find the other party, you have to apply to the court to get him served through substituted service.

Question 20. If a person is residing out of the Jurisdiction of the court how can we bring him to court?

Answer: Such a person could be served through a resident bailiff of that jurisdiction in collaboration with a bailiff of the issuing jurisdiction of the summonse.

Question 21. What is expected of a defendant who is brought to court?

Answer: The defendant can do one of two things; he can concede to the action brought against him or contest it. All these by filing his statement of defense.

Question 22. Must one get a lawyer to put an action in court?

Answer: No one need not consult a lawyer in order to file a matter in court. But it is highly recommended that this is done so as to avoid your matter being thrown out of court on the basis of technicalities.

Question 23. Can I bring two different cases against the same person on the same facts in issue and in the same court?

Answer: No, you cannot. This will amount to double jeopardy. If this is done these cases may be fused through what is known as joinder of causes of actions.

Question 24. Must I bring my case in court within a particular time frame?

Answer: Yes, some cases lapse if you do not bring them to court within some particular time limit as you will have forfeited your rights. On the other hand, you cannot bring an action in certain matters until the expiration of some time frame e.g. an Insurance case can be brought only after 12 months.

Question 25. What is the difference between a statement of claim and application for writ of summons on the one hand and a motion on the other?

Answer: A statement of claim and an application for a writ of summons are substantive ways of introducing an action either in the court of First Instance and the High court respectively. A motion is an interlocutory application that could be made in the course of the other two.

Question 26. How can one get an injunction order against the other in court?

Answer: An injunction order is an interlocutory application made to the court either orally or by way of a motion in court be it ex parte or on notice.

Question 27. After judgment is handed down what next is expected of a plaintiff?

Answer: After judgment is handed down, the plaintiff can apply and get a copy of the judgment. If the judgment is not appealed against, he then registers it and after that, hands it to the bailiff for execution. On

the other hand, the unsuccessful party may appeal against it to the court of appeal.

Question 28. Are all these applicable in a Landlord-Tenant relationship too?

Answer: No, in a landlord tenant relationship, an action is commenced by what we call a plaint which is a different procedure.

Question 29. If one is not satisfied with a court judgment, what does he do?

Answer: If you are not satisfied with a court judgment, you simply just appeal to the court of appeal and possibly to the Supreme Court depending on where the case was.

Question 30. Must election cases go only to the Supreme Court?

Answer: Yes, the law only provides that election disputes should be taken to the Supreme Court by way of an application.

Question 31. Who are the personnel that manage the court?

Answer: These are the magistrates, the lawyers, the registrars and the bailiffs. Each of these persons has a vital role to play in achieving Justice.



Know Your Rights, Know The Law.

Frequently

Asked

Questions

On Civil Matters

Working for Justice and Peace is a
Question of Balance!

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