

Chapter 2 Overview of a Tort Case

COMPLETION

1. Before initiating a complaint, a plaintiff may want to send the defendant a(n) _____ letter in which are detailed the reasons behind his or her claim as well as the plaintiff's expectations in terms of a settlement.
2. If a defendant fails to take any action in opposition to a complaint being served, the plaintiff may be able to get a _____.
3. A(n) _____ indicates that the plaintiff has read his or her complaint and that it is, to the best of the plaintiff's knowledge, true.
4. If a defendant raises a(n) _____ defense, he or she has the burden of proving that defense.
5. A _____ is a claim raised by the defendant against the plaintiff, while a _____ is a claim raised by the defendant against a codefendant.
6. In some states a motion for failure to state a claim upon which relief can be granted is referred to as a(n) _____.
7. _____ are written questions submitted to an opposing party, while a(n) _____ is an oral examination of a witness under oath.
8. Records from an opposing party can be obtained via a _____.
9. If a defendant wants to have the plaintiff examined by an independent physician, he or she can file a _____.
10. A party can file a motion _____ when the opposing party requests information that is privileged and can file a motion _____ when the opposing party refuses to reveal discoverable information.
11. If a party decides that no material fact is at issue and that the case should be decided as a matter of law, he or she should file a(n) _____.
12. The purpose of a _____ is to promote settlement of cases and to make arrangements for the orderly presentation of witnesses and exhibits.
13. An attorney who wants to resolve an evidentiary issue before trial so that the matter is not brought to the attention of the jury should file a _____.
14. A trial before a judge is referred to as a(n) _____.
15. During the process of _____ in which the attorneys or the judge asks potential jurors a series of questions, each party can use _____ to remove those whom the attorney alleges are unable to decide impartially, and can use _____ to remove those he or she wants excluded but for whom the attorney is unable to allege any bias.

16. An attorney gives an overview of his or her case and establishes the theme for the case during _____, and tries to persuade the jury to find in his or her client's behalf during _____.
17. The purpose of _____ is to impeach testimony given during direct examination.
18. A plaintiff in a tort case has the burden of proving each element of his or her case by a _____. If the defendant feels he or she has failed to meet this burden the defendant can move for a _____.
19. During a process known as _____, the judge instructs the jury on the rules of law to be applied after which the jury will be requested to render a _____ or _____ verdict.
20. If a party believes that a verdict was reached that was contrary to the evidence and to the law, he or she can move for a _____. If the party believes that errors were committed at trial, he or she can move for a _____.
21. Once all appeals have been considered and completed, any issues litigated are considered _____, in that they cannot be relitigated at a later date.

TRUE/FALSE

1. A complaint must establish the basis for the court's jurisdiction.
2. A verification must always accompany a complaint.
3. A demurrer is a motion stating that the court in which the complaint was filed lacks jurisdiction.
4. One purpose of discovery is to promote the equitable settlement of cases.
5. Interrogatories are usually answered by or with the assistance of attorneys.
6. Deposition testimony can be used to impeach a witness at trial but cannot be introduced at trial if the witness fails to appear.
7. If a party fails to respond to a request for admissions, those matters within that request will be deemed admitted at trial.
8. To rebut a motion for summary judgment, a party must merely allege that a factual dispute does indeed exist.
9. One of the reasons behind a pretrial conference is to clarify the issues and defenses to be raised at trial.
10. The purpose of a motion *in limine* is to limit the number of questions that can be raised during voir dire.
11. An attorney has an unlimited number of peremptory challenges.
12. The majority of jurors decide the outcome of a case during opening statements.

13. If a party believes that the opposing party has failed to meet its burden of proof at trial, it will move for a summary judgment.
14. Attorneys give relatively little attention to jury instructions because they have little impact on the outcome of a case.
15. A jury that is asked to deliver a general verdict must provide answers to interrogatories in addition to rendering a verdict.
16. Counsel's failure to make the appropriate objections at trial can be remedied by counsel later making a motion for a new trial.
17. A party that believes a verdict is unsupported by the evidence presented at trial may move for a judgment notwithstanding the verdict.
18. The philosophy underlying *res judicata* is that everyone must be given ample opportunity to make arguments before the courts.

SHORT ANSWER

1. What are the four elements of any complaint?
2. What are two possible motions a defendant might file in response to a complaint?
3. In what circumstances might one opt to use interrogatories?
4. In what circumstances might one opt to take a deposition?
5. What is the difference between a challenge for cause and a peremptory challenge?
6. What is the purpose of filing a motion for summary judgment?
7. What is the purpose of making a motion for a directed verdict?
8. What is the difference between a general verdict and a special verdict?