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# **Workbook Answers**

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## § 4.2 CIVIL LIABILITY MATCHING EXERCISE

1. *h: Order*                      An official command of the court
2. *e: Hearing*                      A proceeding, usually in court, at which the judge and both parties are present
3. *f: Privilege*                    The right to refuse to testify or to prevent someone else from testifying
4. *a: Ex Parte Hearing*           An atypical hearing where only one party is present
5. *c: Magistrate*                A judicial officer who may preside over hearings, but who is not a judge
6. *g: Pretrial Conference*      A meeting between the court and the parties for procedural matters; often used by the court to promote settlement
7. *d: Settlement*                An agreement to end litigation for an agreed sum of money
8. *b: Stipulation*                A fact that will not be disputed at trial
9. *i: Burden of proof*            The degree to which something must be proved at trial
10. *k: Rule on Witnesses*        A rule that states that a witness in a case may not be in the courtroom during the testimony of other witnesses
11. *m: Subpoena*                A document used to compel the appearance of a witness
12. *j: Preponderance of the evidence*      Burden of proof in civil cases
13. *l: Counsel*                    Attorney
14. *n: Impeach*                 To attack or discredit a witness's testimony. The general rule is that an attorney is not allowed to impeach his own witness
15. *o: Adverse Judgment*      A judgment against your client
16. *p: Qualify*                 To present proof of a witness's expertise in a specific area

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### § 4.3 CRIMINAL LIABILITY MATCHING EXERCISE

**Match the following terms:**

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| 1. <i>b: Felony</i>                    | A crime punishable by more than one year in prison   |
| 2. <i>e: Probable Cause</i>            | A reasonable basis to believe a crime has been committed   |
| 3. <i>j: Nolle Prosequi</i>            | Describes when a prosecutor decides not to proceed with a case, although there is sufficient evidence to do so |
| 4. <i>k: Plea Bargain</i>              | The criminal equivalent of a settlement  |
| 5. <i>f: Discovery</i>                 | An investigative tool of the prosecutor  |
| 6. <i>a: Beyond a Reasonable Doubt</i> | Burden of proof in a criminal case   |
| 7. <i>c: Misdemeanor</i>               | A crime punishable by less than one year in prison   |
| 8. <i>d: Acquit</i>                    | A judge or jury finds the defendant not guilty   |
| 9. <i>i: Nolo Contendere</i>           | Occurs when a defendant does not contest an allegation, but can be sentenced as though he pled guilty          |
| 10. <i>g: Warrant</i>                  | A court order authorizing a search, seizure or arrest  |
| 11. <i>h: Plead</i>                    | A defendant states whether he is innocent or guilty  |

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#### § 4.2 and 4.3 TERMINOLOGY EXERCISE 1

1. Estate: All property left by a decedent
2. Civil Law: A violation of this law does not directly harm the community; therefore, the person harmed must sue the violator to collect damages
3. Court: May refer to the tribunal or forum where the trial occurs, as well as the judge himself
4. Damages: Awards of money paid to a person in compensation for injury or economic loss
5. Liable: Legally responsible
6. Doctrine: A legal concept generally accepted by most courts which, although it is not always law, offers guidance to the court
7. Joint and Several Liability: Multiple defendants may be found liable as a group or separately.
8. Retainer: Sum of money paid to an attorney to secure his services
9. Appearance: An attorney acting on behalf of a client in court, either through a personal appearance in front of the judge or by filing a document with the court on the client's behalf.
10. Attorney-of-Record: Once an attorney has entered an appearance, he is the attorney-of-record in the case.
11. Venue: The location of trial
12. Diversity of Citizenship: A kind of jurisdiction giving a federal court the power to hear a case because the parties are from different states and the amount of money exceeds a minimum set by federal statute, currently \$75,000.
13. Statute of Limitations: Most legal matters have a time limit for filing suit. The time period generally begins when the damages occur.
14. Summons: Document that informs the Defendant that she or he is being sued, and that she or he has a specific amount of time in which to respond.
15. Complaint: The pleading that initiates litigation.
16. Parties: Individuals or groups involved in a legal action.
17. Plaintiff: Party who initiates legal action by filing a complaint.
18. Cause of Action: A legally valid reason to sue.
19. Co-Defendants: More than one defendant in a legal action.

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20. Motion: A document filed with the court to request some specific legal action(s)
  21. Allegation: A fact claimed by one party
  22. Information and Belief: A common legal phrase that qualifies a statement as being a fact only to the best knowledge of the person making the statement. Equivalent to saying, "I'm not positive, but I think this happened."
  23. Prayer for Relief/Ad Damnum Clause: Element of a complaint that asks for damages. Also called a "Wherefore Clause" or "Claim for Relief."
  24. Jury: A group of citizens from the community charged with determining the outcome of a case
  25. Filing: Occurs when a document is presented to the clerk of court. The document, and copies, are usually date stamped at the time of filing.
  26. Service: The presentation of legal papers to a person
  27. Service of Process: The delivery of the summons and complaint to the defendant in a court action.
  28. Personal Service: Service of legal papers upon an individual, as opposed to a business or registered agent
  29. Process Server: A person who serves legal documents; must generally be at least 18 years of age and nonparty to the action.
  30. Affidavit: A written statement of fact, sworn to under oath
  31. Affiant: One who signs an affidavit

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## § 4.2 and 4.3 TERMINOLOGY EXERCISE 2

1. Bailiff: Court employee who keeps order in the courtroom
2. Jury: A group of citizens called upon to hear the evidence and render a verdict
3. Jury Panel: The group from which the jury is selected
4. Voir Dire: The questioning of potential prospective jurors
5. Alternate Juror: A person hears the entire case with the jury, but who will not deliberate or vote on a verdict unless one of the jurors is dismissed
6. Challenge for cause: A manner in which to dismiss a juror for good reason. Challenges for cause are unlimited.
7. Preemptory Challenge: A manner in which to dismiss a juror for which no reason has to be given. These challenges are limited in number, usually from three or six.
8. Opening Statements: Opening presentations in which both attorneys outline the facts they intend to prove during the trial
9. Burden of Proof: The degree to which something must be proved at trial. The party making an allegation generally bears the burden of proof.
10. Preponderance of the Evidence: Burden of proof in civil cases. This standard means that it is more likely than not that a fact is as a party alleges it to be.
11. Rule on Witnesses: A rule barring witnesses from the courtroom during the testimony of other witnesses
12. Subpoena: A document issued under authority of the court to compel the appearance of a witness
13. Subpoena Duces Tecum: A document issued under authority of the court to compel the appearance of a witness, with documents
14. Objection: A formal challenge, usually regarding evidence or a question that has been asked of a witness by the other side
15. Side Bar/Bench Conference: A discussion between the judge and attorneys, usually at the judge's bench so that the jury cannot hear what is being said
16. Prejudicial: Tending to cause bias, even where no bias existed previously
17. Probative Value: The value of pursuing an investigative (probing) line of questioning
18. Preserving the Record: An attorney making statements or repeating a previously overruled motion for the purpose of protecting any right to appeal at a later point

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19. Preserving the Right of Appeal: If a matter is not objected to at trial, it may not be appealed at a later point. An attorney is careful to object to any matter that may be a point of appeal should the client lose.
  20. Overrule: To deny an objection
  21. Sustain: To affirm an objection
  22. Competency: Legal capacity to testify
  23. Examination: Questions directed at a witness who is under oath in court or at a deposition
  24. Proximate Cause: The event or point at which a series of incidents begin that ultimately result in an event that produces damages
  25. Negligence: Establishment of a duty, followed by a breach of that duty, resulting in damages.
  26. Excuse the Jury: Instruct the jury to leave the courtroom temporarily
  27. Grounds: A reason or reasons
  28. Relevant: Tending to prove or disprove a fact
  29. Strike from the Record: To have certain testimony removed from the record of the trial. This action is usually accompanied by an admonition to the jury members that they are not to consider the stricken testimony they are deliberate.
  30. Clerk of Court: The person or persons responsible for the court files and exhibits.

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**§ 4.2 and 4.3 TERMINOLOGY EXERCISE 3**

1. Lis Pendens: Attachment to the title of a piece of property notifying potential purchasers that the property is the subject of litigation
2. Lien: Attachment to the title of a piece of property preventing its sale until a previous financial obligation has been met
3. Defendant: A party who is the subject of a complaint
4. Rules of Court: The law that governs the procedural mechanics of trials
5. Answer: The pleading filed by the defendant to respond to the allegations in the complaint
6. Affirmative Defense: An admission that a specific act did occur, with the argument that the fault lies somewhere else
7. Counterclaim: A claim by the defendant against the plaintiff
8. Cross-claim: A claim by one defendant against a codefendant. The most common form of a cross-claim is the Third Party Complaint.
9. Default Judgment: A judgment entered by the court in favor of the plaintiff, based on the defendant's failure to respond in a timely fashion
10. Motion: A request that the court take a specific procedural step; similar to a pleading
11. Litigation: A civil lawsuit
12. Contest: To challenge
13. Discovery: The process whereby one party to a suit obtains relevant information from the other party.
14. Certificate of Mailing: This form, attesting that a correct copy has been sent to all parties, is usually attached to a document filed with the court or to a discovery document
15. Order: A specific command of the court, usually demanding that one or both parties perform some specific act
16. Hearing: A proceeding, usually in court, at which the judge and both parties are present
17. Privilege: The right to refuse to testify or prevent another from testifying
18. Ex Parte Hearing: A hearing at which only one party is present
19. Third Party Defendant: The party against whom the Third Party Complaint was filed. The defendant in the original complaint is the "Third-Party Plaintiff."
20. Motion to Dismiss: A motion to dismiss a case without going to trial



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21. Dismissal with Prejudice: When a case is dismissed in this manner, it may not be brought again since the court has made its decision.
  22. Dismissal without Prejudice: When a case is dismissed, in this manner, it may be filed again since the court has not made its decision.
  23. Trial Brief: Also called Trial Memorandum or Points and Authorities, this document is filed with the court and argues a legal issue, relying on law to support the party's position. It attempts to convince the reader, only argues points favorable to the client. Briefs are often filed in support of a motion.
  24. Motion for Summary Judgment: A pretrial motion asking that the court determine the outcome of the case based upon the pleadings and motions rather than going to trial with a jury. The argument is that there are no material facts in dispute, only law, and since the judge is the trier of fact, there is no need for a jury or trial.
  25. Magistrate: A judicial officer who may preside over hearings, but does not have all the powers that a judge possesses and usually deals with procedural matters
  26. Pretrial Conference: A meeting between the court and the parties for procedural matters. Often used by the court to promote settlement.
  27. Settlement: An agreement to end litigation for an agreed upon amount of money or some other consideration.
  28. Stipulation: Agreed to. A fact not disputed at trial
  29. At Issue/In Issue: A legal question that need to be answered by the court

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#### § 4.2 and 4.3 TERMINOLOGY EXERCISE 4

1. Resting a Case: When a party is finished presenting evidence, he rests.
2. Move: To present a verbal motion to the court.
3. Adjourn: To halt the trial temporarily
4. Prima Facie: A case that is sufficient on its face. It means that if all facts alleged by the plaintiff are eventually proven true at trial, the plaintiff deserves to be awarded damages.
5. Motion for Directed Verdict: A motion that asks the court to decide during the trial because the plaintiff has failed to establish a prima facie case
6. Take a Matter Under Advisement: Occurs when the court delays a ruling on a motion so that the motion may be further considered
7. Qualify: To present proof of a witness's expertise in a specific area
8. Voir Dire: To question a potential witness to determine the fitness of his or her testimony
9. Expert Witness: A person who has been qualified by the court as having experience and knowledge in a specific area and allowed to express opinions within that area
10. Closing Arguments: Addressing the jury or the court at the end of the trial; attempting to persuade prior to deliberations.
11. Deliberations: A jury's discussions of the case in private following the trial, with the goal of rendering a verdict.
12. Jury Instructions: Guidelines given to the jury by the judge about the law to be applied and the facts to be considered in their deliberations; may be called a charge to a jury.
13. Verdict: The final determination of the jury
14. Foreman/Foreperson: The person elected by the jury to lead deliberations and speak for its members
15. Motion for Judgment NOV: A motion asking the court to disregard the jury's verdict, replacing it with a verdict of its own.
16. Judgment: A final conclusion of the court.
17. Additur: A situation in which the judge adds to the amount a jury has awarded
18. Remittitur: The process whereby a judge subtracts from the amount of damages a jury has awarded.
19. Motion for New Trial: A request that the judge order a new trial based upon procedural errors that occurred during the trial.

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20. Appeal: To ask the next highest court to decide if the trial court erred
  21. Stay: To delay the implementation of a court's order
  22. Waive: To give up a right. A waiver may be voluntary, or may be the result of an action, or inaction, of the person.
  23. Appeal as a Matter of Right: An appeal where the appellate court has no choice but to hear the appeal.
  24. Notice of Appeal: Written notification in motion form that a party intends to appeal. Most court rules require that the motion be filed with the trial court, the appellate court, and any opposing parties.
  25. Bond on appeal: A sum of money held by the court to ensure that the funds from the award are available after the appellate process
  26. Res Judicata: Doctrine by which a case that has been decided on its merits may not be re-litigated
  27. Bar: To prevent or stop
  28. Appellant: The party initiating an appeal
  29. Appellee: The party responding to an appeal
  30. Record: The official collection of all pleadings, exhibits, motions, orders, and transcript of the trial
  31. Transcript: The word-for-word record of what occurred at trial

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## § 4.2 and 4.3 TERMINOLOGY EXERCISE 5

1. En Banc: Occurs when entire appellate-level court sits to hear and decide a case, indicating the case has a higher level of importance
2. Panel of Justices: a portion of an appellate level court who, together, hear a case
3. Opinion: Written decision of the court
4. Petition: To make a formal request to the court
5. Rehearing: A second chance to present arguments to the court on the same issues
6. Writ of Certiorari: The vehicle by which the case is taken from the Court of Appeals (state or federal) to the Supreme Court (state or federal). Also the means by which a case is taken from a state supreme court to the U.S. Supreme Court.
7. Criminal Law: A violation of this kind of law is viewed as harming the community; therefore, the state acts against the violator.
8. Government or State: In this case, it means the prosecution
9. Prosecution: The bringing of criminal charges against a defendant
10. Warrant: An order from a judicial officer or the court authorizing an act, such as an arrest, search of property, or seizure of property
11. Initial Appearance: The first court appearance by a defendant for a criminal charge during which the court informs him of the charges, decides whether bail is appropriate and sets the date of the next court proceeding
12. Misdemeanor: A crime punishable by a sentence of less than one year
13. Felony: A crime punishable by a sentence of one year or more in prison
14. Bail: Money or property deposited with the court to ensure the appearance of the defendant at trial, allowing the defendant to remain free until a verdict is reached
15. Personal Recognizance: Basis on which a defendant can be released without posting bail, on the promise he will appear in court at designated times
16. Assigned Counsel: An attorney ordered by the court to represent a defendant, usually because the defendant can't afford to pay an attorney
17. Counsel: Another word for attorney
18. Nolle Prosequi: When the prosecutor decides not to pursue a criminal case, although he believes there is sufficient evidence to do so
19. District Attorney: Prosecutor for the government

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20. Plead: To declare a defendant's position in a criminal trial
  21. Plea Bargain: The defendant in a criminal case agrees to plead guilty in return for a reduced sentence
  22. Nolo Contendere (No Contest): A defendant decides not to contest the charges, but does not admit guilt. The defendant may be sentenced as though he pled guilty.
  23. Preliminary Hearing: A hearing during which the state must produce sufficient evidence to establish that there is probable cause to believe that the defendant has committed a crime.
  24. Probable Cause: A reasonable basis to believe that a crime has been committed
  25. Bound Over: Submitted to; sent.
  26. Grand Jury: An investigatory panel that determines whether probable cause exists to return an indictment
  27. Indictment: A formal charge by a Grand Jury alleging a criminal act; often contained in a document called an information.
  28. Arraignment: A proceeding during which the defendant is formally charged with a crime and enters a plea
  29. Impaneled: Selected, sworn in by oath, and seated for trial; usually refers to the jury
  30. Impeach: To attack or discredit a witness' testimony
  31. Beyond a Reasonable Doubt: Degree of proof required in a criminal prosecution. It usually requires 100% agreement of the jury.

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## § 4.2 and 4.3 TERMINOLOGY EXERCISE 6

1. Executive, Legislative, Judicial: The three branches that make up both state and federal government structures
2. Legislative: The branch that creates, or enacts, the law
3. Judicial: The branch that interprets the law (The state and federal court systems make up this branch.)
4. Executive: The branch that enforces the law (The highest federal entity is the President. The highest state entity is the governor.)
5. Court System: Structure that includes trial level and appellate level courts. The action is initiated and the facts and evidence are presented in trial level courts. There is one judge and often a jury.
6. Appeal: A request that a higher court review what a lower court has decided. Usually, the loser in the trial court appeals to the court of appeals, the loser in the court of appeals may appeal to the Supreme Court.
7. Appellant/Petitioner: Usually, the party who loses at the trial-level initiates the appeal and is the appellant.
8. Appellee/Respondent: The party against whom the appeal is brought
9. Federal Courts: Courts which have jurisdiction over cases involving federal questions, cases where the United States is a party, and Diversity of Citizenship cases.
10. U.S. District Court: Trial court where federal actions commence
11. U.S. Court of Appeals: Federal appellate court which is broken into federal circuits and is, therefore, often referred to as the Circuit \_\_\_\_\_.
12. United States Supreme Court: The country's highest court
13. Appellate Court: These courts review the records of the trial court proceedings to determine if the trial court erred. This level of court has multiple judges.
14. Notice of Appeal: The vehicle by which the case is taken from the trial court to the appellate court.
15. Writ of Certiorari: The vehicle by which the case is taken from the court of appeals (state or federal) to the Supreme Court (state or federal); also the means by which a case is taken from a state supreme court to the U.S. Supreme Court
16. Stare Decisis: Latin for "Let the decision stand." The doctrine whereby a previous court decision will guide the court in deciding a current case unless there is a compelling reason to hold otherwise

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## § 5.1 COURT STRUCTURE

1. The three elements that make up both state and federal governmental structures:
  - a. Legislative The branch that creates, or enacts, the law
  - b. Judicial The branch that interprets the law
  - c. Executive The branch which enforces the law
2. Federal courts in your jurisdiction:
  - a. District Court Trial court where federal actions commence
  - b. Circuit Court Federal appellate court
  - c. US Supreme Ct. The country's highest court
3. A violation of civil law does not directly harm the community.
4. A violation of criminal law is viewed as harming the community.
5. The power of a court to hear and decide a case is jurisdiction.
  - a. In Personam Jurisdiction over a person
  - b. In Rem Jurisdiction over the controversy, often property
  - c. Quasi in Rem Jurisdiction over property when property is not the controversy
6. The degree to which something must be proved at trial  
Burden of Proof
  - a. Beyond a reasonable doubt Degree of proof required in a criminal prosecution
  - b. Preponderance of evidence Degree of proof in a civil case
7. A request that a higher court review what a lower court decided  
Appeal
  - a. A petitioner or appellant is usually the party who loses at the trial-level and initiates the appeal.
  - b. A respondent or appellee is the party who wins at the trial-level and the party against whom the appeal is brought.
  - c. Appeal: The vehicle by which the case is taken from the trial court to the appellate court.
  - d. Appellee/Respondent: The party who responds to an appeal
8. Oral questions which must be answered under oath, usually outside of court  
Deposition
9. This motion is made during trial to ask the judge to enter judgment on behalf of one party because the other party has failed to establish a prima facie case, thereby foregoing the need to consult the jury (if there is one).  
Motion for Directed Verdict

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10. A motion which asks the judge to enter a judgment opposite the verdict reached by the jury. Judgment NOV
  11. A motion made before trial requesting the court to enter judgment on behalf of a client based on the fact that there are no material facts in dispute, only issues of law. Motion for Summary Judgment
  12. A pretrial motion arguing that there is no material fact in dispute, so the court does not need the jury to apply the law and should, therefore, enter judgment Motion for Summary Judgment
  13. Legally responsible Liabe
  14. A legal concept generally accepted by and offering guidance to the courts Doctrine
  15. The location of trial Venue
  16. Time limit to file a lawsuit for specific damages Statute of Limitations
  17. Document that informs the defendant that he is being sued. Summons



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## § 5.2 COURT TITLES

1. What is the name of the local court in your jurisdiction?

*Answers may vary. Ask your Instructor.*

2. What is the name of the state trial court in your jurisdiction?

*Answers may vary. Ask your Instructor.*

3. What is the name of the state court of appeals in your jurisdiction?

*Answers may vary. Ask your Instructor.*

4. What is the name of the highest state court in your jurisdiction?

*Answers may vary. Ask your Instructor.*

5. What is the name of the federal trial court in your jurisdiction?

*Answers may vary. Ask your Instructor.*

6. What is the name of the federal court of appeals in your jurisdiction?

*Answers may vary. Ask your Instructor.*

7. What is the name of the highest federal court in the United States?

*The United States Supreme Court.*

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## § 6.6 ABA RULES OF ETHICS

1. May a paralegal give legal advice?  
Answer: **No.**
2. May a paralegal give limited legal advice?  
Answer: **No.**
3. May a paralegal give nonlegal advice?  
Answer: **Yes.**
4. Should a paralegal identify himself if the possibility exists that he could be assumed to be an attorney?  
Answer: **Yes.**
5. May a paralegal ask questions at a deposition?  
Answer: **No.**
6. May a paralegal prepare questions for an attorney to ask at a deposition?  
Answer: **Yes.**
7. May a paralegal represent another person in a court of law?  
Answer: **No.** *(Although there are a few exceptions, such as in some small claims courts, the best answer is no.)*
8. May a paralegal represent him or herself in a court of law?  
Answer: **Yes.**
9. May a paralegal interview clients?  
Answer: **Yes.**
10. May a paralegal interview witnesses?  
Answer: **Yes.**

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§ 7.1 EVIDENCE AND PROCEDURE EXERCISE

1. What are the procedural rules for litigation called?  
**Rules of Civil Procedure**
2. This is the right to refuse to testify.  
**Privilege**
3. This is the right to prevent someone else from testifying.  
**Privilege**
4. What is the best way to apply court rules?  
**Break any rule being analyzed into elements.**
5. Where should one begin researching in court rules?  
**Index**
6. Can a paralegal interpret a court rule for the general public?  
**No, this requires a legal opinion.**
7. What is the Husband-Wife Privilege also called?  
**Spousal Privilege**
8. These enable hearsay testimony to be admissible.  
**Exceptions**
9. Which of the following statements is accurate?  
**a. Hearsay is inadmissible,  
unless it falls under an exception to the rule.**
10. Is there such a thing as a "paralegal privilege?"  
**No, paralegals generally fall within the attorney-client privilege.**

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## § 7.2 DIRECT V. CIRCUMSTANTIAL EVIDENCE

1. Phil is charged with robbery. A witness at the scene wants to testify that Phil was in the store on the day in question. What kind of evidence would the testimony be, in terms of determining whether Phil committed the robbery?

**ANSWER: Circumstantial**

2. Carol witnessed a car accident. She was stopped at a red light when a blue car ran the same light, and collided with a bus. What kind of evidence would Carol's testimony be about the accident?

**ANSWER: Direct**

3. Marris is in trouble. Her fingerprints were found on the handle of a kitchen knife in the back of her boyfriend. She claims she is innocent. What kind of evidence are the fingerprints as to the murder?

**ANSWER: Circumstantial**

4. Steve is a bricklayer. He is being sued for using substandard materials. Last week, one of the houses he worked on collapsed. During a subsequent investigation, it was determined that the mortar was of substandard quality. What kind of evidence would the mortar report be as the question of substandard materials?

**ANSWER: Circumstantial**

5. In a rape case, semen from your client was found inside the vagina of the alleged victim. What kind of evidence would the semen be in the rape case.

**ANSWER: Circumstantial**

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## § 7.4 COURT RULES

Using the rules of your state for civil procedure, either on line or hard-copy, locate the appropriate rules for the following questions:

*Note regarding answer key: Most state/federal courts have similar Rules of Civil Procedure and the numbering of the rules generally correspond (e.g., Rule 56 will apply to Motions for Summary Judgments in all jurisdictions.) The following answers are applicable in most courts, but may vary. Give the number of the rule and answer all questions.*

1. What rule sets the point at which discovery may begin?  
**Rule: 26 (but see also 27)**
2. Are supporting affidavits required in filing a motion for summary judgment?  
**Rule: 56 Answer: Generally, no**
3. What rule provides for additional time to respond to motions when the motion is served by mail? Quote the rule.  
**Rule: 6(e) Answer: "3 days shall be added to the prescribed period"**
4. What rule states the time within which a defendant must respond to a summons? What is the number of days?  
**Rule: 12 (a) Answer: 20 days**
5. What rule establishes requirements for filing papers with the court?  
**Rule: 5**
6. What is the general rule for discovery? Quote the rule.  
**Rule: 26 Answer: "Parties may obtain discovery regarding any matter"**
7. How many interrogatories may be sent in a case?  
**Rule: 33(d) Answer: 40**
8. What rule provides for oral depositions?  
**Rule: 30 Answer: 30 (Oral Examination) 31(Written Questions)**
9. What happens when a party fails to respond to a Request for Admission?  
**Rule: 36 Answer: "Matter is [deemed] admitted"**
10. What rule tells us how time-periods are computed?  
**Rule: 6 (a)**
11. May a paralegal serve process in a civil case?  
**Rule: 4(c) Answer: Yes**
12. What rule provides for affirmative defenses?  
**Rule: 8(c)**
13. How many copies of a motion are to be filed with the court?  
**Jurisdiction-specific**
14. What rules provides for Certificate of Mailing?  
**Rule: 5(b) Answer: "Proof of service may be made by certificate . . ."**

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## § 7.6 HEARSAY EXERCISE

1. Hearsay is:
  - A. *admissible*
  - B. *Inadmissible*
  - C. **Admissible, but only under an exception.**
  
2. In most jurisdictions, hearsay is generally governed by (more than one answer may apply):
  - A. **The rules of court**
  - B. **Statute (in some states)**
  - C. *Neither of the above*
  
3. Sam is walking down the street when his wife says she is going to divorce him. Sam is now charged with attacking his wife. Would the wife's testimony about her statement be considered hearsay?
  - A. *Yes*
  - B. **No**
  
4. To be admissible, hearsay must:
  - A. **Fall under an exception**
  - B. *Be direct evidence*
  - C. *Both A and B*
  
5. Jim and Kerry are talking one evening when Kerry says, "I poisoned my neighbor's dog." Kerry is now charged with animal abuse and the prosecutor wants Jim to testify as to Kerry's statement. Is it hearsay?
  - A. **Yes**
  - B. *No*
  
6. Is it admissible?
  - A. *Yes, if it falls under an exception*
  - B. *No, unless it falls under an exception*
  - C. **Both A and B**
  
7. Joe asks Sara if she is on drugs. Sara says, "Yes, I've been doing heroin for years." The state is now trying to take Sara's children away and wants Joe to testify as to Sara's statement. Would it be hearsay?
  - A. *Yes*
  - B. **No**
  
8. Is it admissible?
  - A. **Yes, if it falls under an exception**
  - B. *No, if it falls under an exception*
  - C. *Both A and B*

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## § 7.7 HEARSAY EXERCISE

1. Jim was walking in a mall when his best friend, Henry, walked up to him and said, "Gosh, Kevin just shoplifted!" Kevin is being tried for shoplifting and the prosecution wants Jim to testify to the statement.

**Is it hearsay? Yes**

**Is it admissible? Yes, Excited Utterance**

2. Candy has been charged with extortion. Her attorneys wish to enter into evidence work records from her job which they claim will establish that Candy was not present on certain days in question.

**Is it hearsay? Yes**

**Is it admissible? Yes, Business Records Exception**

3. Sandy and Jody are friends. During a joint vacation, Sandy asked Jody to loan her some money and said she would pay the money back when they returned home. The money was never paid back and Jody is suing. Jody is testifying that Sandy made a verbal promise that the money would be paid back.

**Is it hearsay? Yes**

**Is it admissible? Yes, Admission of a Party**

4. George was at a bar one night when he witnessed an argument between a man and a woman. The woman yelled out, "Okay, I'm the real Unibomber. I admit it!" An attorney in the trial of David Kaczynsky wants to call George to the stand to testify as to the statement. (Assume that the attorney can convince the judge that the statement has some merit or relevance.)

**Is it hearsay? Yes**

**Is it admissible? Yes, Declaration Against Interest**

5. Holly was standing on a corner when a car crashed into a light pole near-by. The driver, Nick, jumped out of the car, then fell to the ground in obvious pain. When Holly tried to help the man, he said, "Please get the cocaine out of my car." Just then the car caught on fire and blew up, destroying everything in the automobile. The prosecutor wants Holly to testify about the statement.

**Is it hearsay? Yes**

**Is it admissible? Yes, Admission of a Party**

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§ 7.0 CHAPTER 7 BONUS STUDY 1

1. What is the best strategy a paralegal can use when interviewing a witness?

**Prepare interview questions with the intent to pursue the client's interests and LISTEN to the witness' comments!**

2. What is the paralegal's goal when interviewing a client?

**Remain neutral.**

3. What is the paralegal's goal when interviewing a witness?

**Pursue the client's interests.**

4. What are the elements of competency?

- (1) understands the obligation to tell the truth and can differentiate between right and wrong**
- (2) has the ability to communicate**
- (3) is knowledgeable as to the topic of his testimony**

5. Define "admissibility" of evidence.

**Whether a jury will be allowed to hear evidence.**

6. What are the five kinds of witnesses? Define them.

- (1) Hostile: a witness with interests opposite to your client.**
- (2) Skeptical: a witness who doesn't want to "get involved."**
- (3) Neutral: a witness who favors neither side.**
- (4) Friendly: A witness with interests in favor of your client.**
- (5) Combination: A mixture of the above kinds of witnesses.**

7. What is examination of a witness? What kinds of examination are there?

**Questioning of a witness. The kinds of examination are:**

- (1) Direct**
- (2) Cross**
- (3) Redirect**
- (4) Recross**

8. What is privilege? Name as many as you can, define them.

**The right to refuse to testify or the prevent someone else from testifying in court. The following are generally recognized privileges:**

- (1) Attorney/Client**
- (2) Doctor/Patient**
- (3) Privilege Against Self-Incrimination**
- (4) Governmental Information**
- (5) Clergy/Penitent**
- (6) Husband/Wife (Spousal)**



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9. Define hearsay.

**In-court testimony of an out-of-court statement made by someone other than the in-court witness, offered to prove the truth of the matter asserted. In determining hearsay, the question of credibility lies with the out-of-court asserter.**

**Key: An in-court witness says "I heard him say ..."**

10. Is hearsay admissible? Explain.

**No, unless it falls within an exception.**

11. What is evidence? What makes evidence relevant?

**That which tends to prove or disprove a fact in issue. Evidence is relevant in a case if one fact tends to make another fact more or less probable than it would be without that fact.**

12. Name various "kinds" of evidence. (Hint: Think in pairs).

**Direct/Circumstantial  
Oral/Physical**

13. What are some general rules when interviewing a client or investigating a case?

**A paralegal acting as investigator cannot engage in any activity that an attorney would be prohibited from engaging in. A paralegal must, for example, identify himself, and act professionally and ethically.**

14. Using what formats may a paralegal break down a deposition? Define them.

**A *Deposition Summary* (also called a *Deposition Digest*) is a summary of the information in the deposition. It can be a topical or Page-by-Page summary.**

**A *Deposition Index* provides the Page numbers each term is found on in the deposition; but is usually done by computer today.**

15. What is the difference between Attorney/Client Privilege and attorney work product?

**Attorney work product is all material collected and prepared in anticipation of litigation (limited scope). The attorney/client privilege applies to all communications between a client and an attorney or paralegal.**

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§ 7.0 CHAPTER 7 BONUS STUDY 2

1. An inference is required for what kind of evidence?
  - A. Direct
  - B. Circumstantial**
  - C. Hearsay
  
2. Admissible evidence is:
  - A. That evidence that the jury will hear**
  - B. That evidence that is true
  - C. That evidence that is relevant
  
3. Testimony is:
  - A. Always admissible
  - B. Oral evidence**
  - C. Always direct evidence
  
4. In a murder case, evidence that the witness knew the defendant would be what kind of evidence as to the murder?
  - A. Direct
  - B. Circumstantial**
  - C. Hearsay
  
5. In a rape case, semen found in the vagina of the victim matching the defendant would be what kind of evidence as to the rape?
  - A. Direct
  - B. Circumstantial**
  - C. Hearsay
  
6. In a rape case, semen found in the vagina of the victim matching the defendant would be what kind of evidence as to sexual contact between the victim and the defendant?
  - A. Direct**
  - B. Circumstantial
  - C. Hearsay
  
7. In a burglary case, possession of items that were robbed would be what kind of evidence as to the burglary?
  - A. Direct
  - B. Circumstantial**
  - C. Hearsay

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8. In a burglary case, possession of items that were robbed would be what kind of evidence as to possession of stolen goods?
- A. Direct**
  - B. Circumstantial
  - C. Hearsay
9. In a burglary case, a videotape showing the defendant in the home committing the burglary would be what kind of evidence as to the burglary?
- A. Direct**
  - B. Circumstantial
  - C. Hearsay
10. In a case of murder, fingerprints on the murder weapon are what kind of evidence as to the murder?
- A. Direct
  - B. Circumstantial**
  - C. Hearsay

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## § 8.1 INVESTIGATION EXERCISE

1. What should a paralegal prepare prior to most legal interviews?

***Interview questions***

2. When interviewing a client, what is a paralegal's goal?

***When interviewing a client, a paralegal should obtain all of the relevant facts regarding the incident, including the names and contact information of witnesses, list of relevant documents and any other information that may be useful in developing/investigating the client's case.***

3. When interviewing a witness, what is a paralegal's goal?

***The goal when interviewing a witness is to pursue the client's interests and obtain as much information regarding the client's case as possible.***

4. What are the three basic forms of examination?

***Direct, Cross, and Redirect. Re-cross is rarely allowed by the court, unless new information is brought up in redirect.***

5. What is the difference between a formal and an informal witness statement?

***A formal witness statement is generally typed and often notarized. The formal statement is often prepared after an initial interview and possibly after several interviews. An informal witness statement is usually handwritten, and may be the result of unexpected information.***

6. What is it called when a paralegal attempts to find a missing witness?

***Skip-tracing***

7. What is it called when a paralegal attempts to find a missing client?

***Skip-tracing***

8. Interview questions should generally be arranged according to what system?

***Chronological***

9. Under what circumstances may an interview be secretly tape-recorded?

***None***

10. What is the search for documentation for a piece of property called?

***Title search***

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### § 9.3 STAGES OF THE INTERVIEW EXERCISE

You are going to interview potential clients for each of the following matters. Assume the firm has a "New Matter Sheet" for background information. To develop interview questions, determine the points at which the *Pre-Event*, *Event* and *Post-Event* stages begin. Remember that it is often easier to identify the *Event Stage* first.

#### ***A spousal-abuse incident:***

- Pre-Event:* **All events prior to the physical encounter during which the physical abuse occurred. The pre-event stage would include a history of the parties' relationship, including prior incidents of domestic violence, as well as the personal and psychological profile of the abuser (for example, does the abuse occur when the husband experiences trouble at work).**
- Event:* **The physical encounter during which the abuse occurred, focusing on the first sign of abusive behavior.**
- Post-Event:* **All events after the abusive incident ended, including any apologetic and remorseful statements made by the husband.**

#### ***A drunk-driving accident:***

- Pre-Event:* **The driver's driving history as well as his personal profile, including past alcohol and/or drug use. This stage would also include all drinking by the driver prior to getting behind the wheel the day/night of the accident.**
- Event:* **The event stage begins when the driver gets in the car to drive while intoxicated and generally ends when the car comes to a stop, after the accident.**
- Post-Event:* **All actions/events after the car comes to a stop.**

#### ***A landlord/tenant dispute where the tenant refuses to pay rent until the plumbing is repaired:***

- Pre-Event:* **The history of the rental relationship, including the provisions of the rental agreement between the landlord and the tenant. This stage would also include the plumbing problems experienced by the tenant, continuing until that time when the landlord refuses/fails to repair the plumbing.**
- Event:* **The period beginning when the landlord refuses/fails to make the repairs and ending when the repairs are made (by the landlord) or the tenant pays rent, whichever occurs earlier.**
- Post-Event:* **After the repairs are made by the landlord or the tenant pays rent. This stage includes retaliatory actions by the landlord.**

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### § 9.3 STAGES OF THE INTERVIEW EXERCISE

1. For the following kinds of legal interviews, what would be a good setting?

- a. reviewing documents with a bankruptcy client

**Client's office or where the client archives files**

- b. initial interview of a client getting a divorce

**Law office**

- c. a teenage witness to a car accident

***The witness' home or another neutral setting, although sometimes teenagers respond better to a paralegal's authority in a law office setting.***

- d. a doctor who will be an expert witness

**Doctor's office**

- e. a ten-year-old witness in a domestic case

***A setting away from the child's home, preferably a location that provides some privacy; if a parent involved in the domestic case is present, the child may be hesitant to discuss the issues openly.***

- f. a client who is a public figure

**Law office or public figure's office**

2. Besides preparing questions, what might a good paralegal do to in preparation for an interview?

**A paralegal should (1) dress appropriately, (2) find an appropriate interview location, (3) obtain recording equipment, if necessary, and (4) properly prepare the interview room/area.**

3. Are there any steps the paralegal could take after the interview?

**The paralegal could: (1) transcribe tape-recordings of the interview, if necessary, (2) send a follow-up thank you note, (3) review notes to identify other potential witnesses.**

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**§ 10.0 CHAPTER 10 CITATION STUDY 1**

1. The title of the case is Henry v. Jacobs. It is found in the Federal Supplement series. The Volume is 783, and the Page is 221. It was decided in 1989 in the District of Nevada.

*Henry v. Jacobs*, 783 F. Supp. 221 (D. Nev. 1989)

2. The title of the case is King v. Summers. It was decided in the federal trial court in the E.D. of Tennessee. The Volume is 832, and the Page is 364. It was decided in 1992.

*King v. Summers*, 832 F. Supp. 364 (E.D. Tenn. 1992)

3. The title of the case is Lacey v. Whittle. It was decided in the federal trial court in the Central District of California. The Volume is 289, and the Page is 141. It was decided in 1966.

*Lacey v. Whittle*, 289 F. Supp. 141 (C.D. Cal. 1966)

4. The title of the case is Rhome v. Evans. It is found in the Federal Reporter, 2d Series. The Volume is 788, and the Page is 1103. It was decided in 1988 in the second federal circuit.

*Rhome v. Evans*, 788 F.2d 1103 (2<sup>nd</sup> Cir. 1988)

5. The title of the case is Powers v. Bradley. It was decided in the federal appellate court in the 4<sup>th</sup> Circuit. The Volume is 901, and the Page is 896, Second Series. It was decided in 1995.

*Powers v. Bradley*, 901 F.2d 896 (4<sup>th</sup> Cir. 1995)

6. The title of the case is Grogan v. Foley. It was decided in the federal appellate court in the 6<sup>th</sup> Circuit. The Volume is 102, and the Page is 358, third series. It was decided in 1998.

*Grogan v. Foley*, 102 F.3d 358 (6<sup>th</sup> Cir. 1998)

7. The title of the case is Haley v. Akins. It was decided by the U.S. Supreme Court. The official cite is Volume 342, Page 728. The West publication is Volume 424, Page 628. The Lawyer's Coop. cite is Volume 276, Page 1281, Second Series. The year was 1985.

*Haley v. Akins*, 342 U.S. 728, 424 S. Ct. 628, 276 L. Ed. 2d 1281 (1985)

8. The title of the case is Mobley v. Carter. It was decided by the U.S. Supreme Court. The official cite is Volume 427, Page 885. The West publication is Volume 490, Page 748. The Lawyer's Coop. cite is Volume 317, Page 475, Second Series. The year was 1988.

*Mobley v. Carter*, 427 U.S. 885, 490 S. Ct. 748, 317 L. Ed. 2d 475 (1988).

9. The title of the case is Taylor v. Jackson. It was decided by the U.S. Supreme Court. The official cite is Volume 380, Page 584. The West publication is Volume 503, Page 21. The Lawyer's Coop. cite is Volume 298, Page 992, Second Series. The year was 1990.

*Taylor v. Jackson*, 380 U.S. 584, 503 S. Ct. 21, 298 L. Ed. 2d 992 (1990).

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10. The title of the case is *Castle v. Bickers*. It was decided in the Arizona Supreme Court in 1977. The official cite is Volume 386, Page 118. The unofficial publication is Volume 582, Page 893, Second Series.

*Castle v. Bickers*, 386 Ariz. 118, 582 P.2d 893 (1977)

11. The title of the case is *Newberry v. Wickers*. It was decided in the Washington Court of Appeals in 1991. The official cite is Volume 264, Page 854. The unofficial publication is Volume 330, Page 391, Second Series.

*Newberry v. Wickers*, 264 Wash. App. 854, 330 P.2d 391 (1991)

12. The title of the case is *Forest v. Yancey*. It was decided in the Montana Supreme Court in 1985. The official cite is Volume 292, Page 452. The unofficial publication (Pacific Reporter, Second Series) is Volume 623, Page 1032.

*Forest v. Yancy*, 292 Mont. 452, 623 P.2d 1032 (1985)

13. The title of the case is *Nixon v. Ford*. It was decided in the Colorado Supreme Court in 1983. The unofficial publication (Pacific Reporter, Second Series) is Volume 582, Page 893.

*Nixon v. Ford*, 582 P.2d 893 (Colo. 1983)

14. The title of the case is *Cory v. Kiplinger*. It was decided in the Texas Supreme Court in 1989. The unofficial publication (South Western Reporter, Second Series) is Volume 622, Page 83.

*Cory v. Kiplinger*, 622 S.W.2d 83 (Tex. 1989)

15. The title of the case is *Myers v. Crowley*. It was decided in the Tennessee Court of Appeals in 1991 (Civil Division). The unofficial publication (South Western Reporter, Second Series) is Volume 783, Page 290.

*Myers v. Crowley*, 783 S.W. 290 (Tenn. Ct. App. 1991)



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## § 10.0 CHAPTER 10 CITATION STUDY 2

1. The title of the case is *Jackman v. Stemple*. It was decided in the New Mexico Supreme Court in 1983 (N.M.). The unofficial publication (Pacific Reporter, Second Series) is Volume 582, Page 893.  
*Jackman v. Stemple*, 582 P.2d 893 (N.M. 1983)
2. The title of the case is *Hacker v. Black*. It was decided in the Louisiana Supreme Court in 1989. You cannot find the official cite. The unofficial publication is Volume 622, Page 83.  
*Hacker v. Black*, 622 So. 83 (La. 1989)
3. The title of the case is *Hughes v. Ventana*. It was decided in the Nevada Supreme Court in 1991, the unofficial cite is Volume 783, Page 290, 2d Series.  
*Hughes v. Ventana*, 783 P.2d 290 (Nev. 1991)
4. The title of the case is *Copper v. Williams*. It was decided in the Arizona Supreme Court in 1988. The official cite is Volume 386, Page 118. The unofficial publication is Volume 582, Page 893, Second Series.  
*Copper v. Williams*, 386 Ariz. 118, 582 P.2d 893 (1988)
5. The title of the case is *Tistle v. Mancos*. It was decided in the Michigan Court of Appeals in 1993. The official cite is Volume 264, Page 854. The unofficial publication is Volume 330, Page 391, Second Series.  
*Tistle v. Mancos*, 264 Mich. App. 854, 330 N.W.2d 391 (1993)
6. The title of the case is *Kite v. Johns*. It was decided in the Iowa Supreme Court in 1985. The official cite is Volume 292, Page 452. The unofficial publication series is Volume 623, Page 1032.  
*Kite v. Johns*, 292 Iowa 452, 623 N.W.2d 1032 (1985)
7. The title is *Britton v. Wheeler*. It was decided in the 10<sup>th</sup> Cir. Court of Appeals in 1983, the unofficial publication, 2d Series, is Volume 582, Page 893.  
*Britton v. Wheeler*, 582 F.2d 893 (10<sup>th</sup> Cir. 1983)
8. The title of the case is *Esterly v. Northrop*. It was decided in the U.S. District Court in 1991 in the District of Oregon. The unofficial cite is Volume 783, Page 290, Second Series.  
*Esterly v. Northrop*, 783 F. Supp. 2d 290 (D. Or. 1991)
9. The title of the case is *Jordan v. Hancock*. It was decided in the federal trial court in the District of Arizona. The Volume is 244, and the Page is 41. It was decided in 1977.  
*Jordan v. Hancock*, 244 F. Supp. 41 (D. Ariz. 1977)

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### § 10.0 CHAPTER 10 CITATION STUDY 3

1. The title of the case is *Weston v. Loewe*. It was decided by the U.S. Supreme Court. The official cite is Volume 437, Page 865. The West publication is Volume 400, Page 438. The Lawyer's Coop. cite is Volume 217, Page 379, 2d Series. The year was 1988.

*Weston v. Loewe*, 437 U.S. 865, 400 S. Ct. 438, 217 L. Ed. 2d 379 (1988)

2. The title of the case is *Youngblood v. Newerly*. It was decided in the Nevada Supreme Court in 1977. The official cite is Volume 274, Page 132. The unofficial publication is Volume 672, Page 2543, Second Series.

*Youngblood v. Newerly*, 274 Nev. 132, 672 P.2d 2543 (1977)

3. The title of the case is *Moss v. Everly*. It was decided in the New Mexico Court of Appeals in 1991. The official cite is Volume 764, Page 921. The unofficial publication is Volume 641, Page 13, Second Series.

*Moss v. Everly*, 764 N.M. 921, 641 P.2d 13 (N.M. Ct. App. 1991)

4. The title of the case is *Wheatley v. Jackson*. It was decided in the federal trial court in your jurisdiction. The Volume is 458, and the Page is 1109. It was decided in 1992.

*Wheatley v. Jackson*, 458 F. Supp. 1109 (\_\_\_ D. \_\_\_ 1992)

5. The title of the case is *Kopton v. Sheyes*. It is found in the Federal Reporter, 2d Series. The Volume is 323, and the Page is 571. It was decided in 1988 in your jurisdiction.

*Kopton v. Sheyes*, 323 F.2d 571 (\_\_\_ Cir. 1988)

6. The title of the case is *Hanson v. Drake*. It was decided in the Montana Supreme Court in 1985. The official cite is Volume 292, Page 452. The unofficial publication (Pacific Reporter, Second Series) is Volume 623, Page 1032.

*Hanson v. Drake*, 292 Mont. 452, 623 P.2d 1032 (1985)

7. The title of the case is *Mozart v. Handel*. It was decided in the Colorado Supreme Court in 1983. The unofficial publication (Pacific Reporter, Second Series) is Volume 582, Page 893.

*Mozart v. Handel*, 582 P.2d 893 (Colo. 1983)

8. The title of the case is *Bach v. Beethoven*. It was decided in the Texas Supreme Court in 1989. The unofficial publication (South Western Reporter, Second Series) is Volume 622, Page 83.

*Bach v. Beethoven*, 622 S.W.2d 83 (Tex. 1989)

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9. The title of the case is Hamlet v. Macbeth. It is found in the Federal Supplement series. The Volume is 783, and the Page is 221. It was decided in 1989 in your jurisdiction.

*Hamlet v. Macbeth*, 783 F. Supp. 221 (\_\_\_D. \_\_\_ 1989)

10. The title of the case is Lions v. Bears.. It was decided in the federal appellate court in your jurisdiction. The Volume is 901, and the Page is 896, Second Series. It was decided in 1995.

*Lions v. Bears*, 901 F.2d 896 (\_\_\_ Cir. 1995)

11. The title of the case is Romans v. Gladiators. It was decided by the U.S. Supreme Court. The official cite is Volume 427, Page 885. The West publication is Volume 490, Page 748. The Lawyer's Coop. cite is Volume 317, Page 475, 2d Series. The year was 1988.

*Romans v. Gladiators*, 427 U.S. 885, 490 S.Ct. 748, 317 L. Ed. 2d 475 (1988)

12. The title of the case is It v. That. It was decided in the Arizona Supreme Court in 1977. The official cite is Volume 386, Page 118. The unofficial publication is Volume 582, Page 893, Second Series.

*It v. That*, 386 Ariz. 118, 582 P.2d 893 (1977)

13. The title of the case is Us. v. Them. It was decided in the Washington Court of Appeals in 1991. The official cite is Volume 264, Page 854. The unofficial publication is Volume 330, Page 391, Second Series.

*Us v. Them*, 264 Wash. App. 854, 330 P.2d 391 (1991)

14. The title of the case is Him v. Her. It was decided in federal trial court in your jurisdiction. The Volume is 832, and the Page is 364. It was decided in 1992.

*Him v. Her*, 832 F. Supp. 364 (\_\_\_D. \_\_\_ 1992)

15. The title of the case is Smith v. Jones. It is found in the Federal Reporter, 2d Series. The Volume is 788, and the Page is 1103. It was decided in 1988 in your jurisdiction.

*Smith v. Jones*, 788 F.2d 1103 (\_\_\_ Cir. 1988)

