

8.1: THE PATH OF A CIVIL TORT CASE

INTRO DUCION

The previous chapter explained the path of a criminal case in NYS. This chapter will explain the path of a civil litigation case. While there are many similarities between a civil and criminal case, there are also many things that are different. It should be noted that there are far more attorneys who work in civil law on a daily basis than in criminal law.

The law in the United States is based on the common law legal system. We base our law on precedent. So, when we speak of civil law here in the United States, we are differentiating a lawsuit against a person or entity we feel has wronged us in some way versus a criminal act and the consequences of that act. This should not be confused with the civil law legal system which is the most common legal system in the world. The civil law legal system is not based on precedent, but on codified laws. It is very different than the common law legal system.

To complicate things even more, when we speak of civil law here in the United States, many lawyers will differentiate between transactional and litigation. Civil law that is transactional would be matters like drafting a contract or a will. It may involve real estate purchases and sales. Civil law that involves litigation may be a lawsuit that is a result of a breach of contract or contesting the validity of a will. It may involve instituting a lawsuit after a person is injured in an automobile accident.

While there are many different areas of the law that are in the civil law bucket, generally speaking they all follow the same litigation path. This chapter will focus on the law of torts and the path of a civil negligence litigation case.

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