

Civil Justice System

The Civil Justice System is the court system used in America to address civil (as opposed to criminal) disputes between citizens where money damages are paid by wrongdoers to individuals or small businesses whom they have harmed through negligent conduct.

Conduct that intentionally harms another is dealt with by the Criminal Justice System, not the Civil Justice System.

Contingency Fee

The contingency fee system is the “key to the courthouse” for thousands of Americans. It allows an individual injured by a negligent wrongdoer to hold them accountable without needing the resources to pay up front for an attorney. Rather than charging for legal services by the hour, an attorney agrees to accept a portion of the recovery in the case. If the plaintiff receives no compensation, the attorney receives nothing. Since attorneys bear all the financial risk if there is no recovery or if the recovery does not cover their costs, they help act as gatekeepers to a fair civil justice system. Contingency fees also force attorneys to act efficiently, since extra costs come from their bottom line, rather than the client’s pocket.

Damages

There are two major types of damages:

1. **Compensatory damages:** Compensatory damages compensate a plaintiff - one who brings a lawsuit - for injury or loss. Compensatory damages are subdivided into two types, economic and non-economic damages.

A. Economic Damages compensate plaintiffs for losses that are easily measured by money, such as lost wages, repairs to a car, the cost of hospital care, etc.

B. Non-Economic Damages compensate real injuries and losses that are not easily quantified by a dollar amount and are often called “quality of life” damages. They are often as important or more important to the injured person as the losses that can be directly converted into dollars. Non - economic damages compensate for losses such as blindness, physical disfigurement, loss of reputation, emotional distress, loss of fertility, loss of sexual function, loss of a limb, loss of mobility and loss of enjoyment of life.

2. **Punitive damages:** A jury awards assesses punitive damages to punish a defendant for willfully malicious acts that go beyond mere negligence. Unlike compensatory damages, which are assessed to make the plaintiff “whole,” punitive damages are assessed to punish and deter bad behavior in the future. Punitive damages are awarded very rarely (in only about 3% of cases). However, punitive damages deter corporations from engaging in actions they know will hurt people - such as placing defective products on the market.

Note:

Non-economic damage awards are often more important to those who do not work outside the home, such as the elderly, children and homemakers. That’s because plaintiffs who do not work outside the home cannot collect a “lost wages” portion of economic damages. The “worth” of a homemaker’s work inside the home is not easily measured by a dollar amount, and would only be compensated through non-economic

damages. Efforts to limit non-economic damage awards specifically target the most vulnerable in our society - the elderly and our children.

Damages Cap

A damages cap is a law that limits the amount a jury can award for damages, no matter what the facts of the case are. Some state legislatures, like Georgia's, have enacted caps in civil cases and some have not. Some caps are only for specific kinds of cases, such as medical malpractice, and others limit non-economic damages only, and some limit damages. For example, Georgia law caps non-economic damages in medical malpractice cases and caps punitive damages in all but a few types of cases.

Liability

Liability is legal responsibility under civil law. In the context of personal injury tort law, liability refers to being legally responsible for an injury or loss.

Negligence

Negligence is the failure to use such care as a reasonably prudent and careful person would use under similar circumstances. If a person is negligent and an injury results that person may be liable to pay damages for that injury.

Premises Liability

Premises Liability refers to the legal responsibility a property owner has to take reasonable steps to safeguard their property from causing harm to a person while on the owner's property. Depending on a number of factors, property owners are generally responsible for the harm suffered by another on their property when the owner knew of that risk, or should have reasonably known of that risk, of harm to others.

Statute of Limitations

A statute of limitations is an arbitrary time limit that cuts off a plaintiff's ability to file a case after a certain period of time. Statutes of limitation can begin to run at various points after the event that caused harm. Some statutes of limitations run from the date of the injury, even if the injury is not detected until much later. In Georgia, most, but not all, personal injury cases are controlled by a 2-year statute of limitations.

Statute of Repose

In a products liability action, the statute of repose bars almost every claim for harms caused by a defective product that was first sold ten years earlier regardless of when the harm occurred. In Georgia there also is a statute of repose on medical malpractice cases. This statute of repose bars any claims not filed within five years of the negligent act - even if the harm has not yet occurred.

Tort

Barron's Law Dictionary defines a tort as "a civil [as opposed to criminal] wrong or injury resulting from a breach of legal duty that exists by virtue of society's expectations regarding interpersonal conduct." A tort arises when all three of the following elements occur;

1. The defendant has a duty to a plaintiff (for instance, to ensure that a product is safe for use),
2. The defendant has breached that duty (for instance, the product has been made unsafe), and
3. The breach is the cause of an injury (or loss).

If, for instance, a defendant manufactures an unsafe product and sells it to a customer, but no injury or loss occurs, there has been no tort.