

STUDY GUIDE FOR COURTS AND PROCEDURES MIDTERM

SHORT ANSWER: (17 of 19 – 5 pts. Each)

- a. Define and explain the difference between criminal law and civil law
 1. Criminal law → defines criminal offenses with substantive law
 2. Civil law → all state and federal laws pertaining to non criminal activity
- b. Name and describe the three functions of law.
 1. Social control → efforts by society to regulate the behavior of its member
 2. Dispute resolution → civil action intended to solve conflicts between two parties
 3. Social change → the use of law to modify ideas and practices
- b. List and define the burdens of proof in a criminal and a civil case.
 1. Civil case → the plaintiff must prove that the defendant was negligent by preponderance of evidence.. the greater weight of information is in favor or against the defendant
 2. Criminal case → the prosecution must prove beyond a reasonable doubt that the defendant committed the crime, it is used to establish guilt based on evidence presented
- d. Define a trial court and an appellate court and explain how a case moves through the different levels of court. (Include: Court of last resort, amicus curiae, rule of 4, harmful error).
 1. Trial court → determine if the defendant is guilty or innocent
 2. Appellate court → determine whether the law was applied correctly
 3. Court of last resort → highest judicial court; supreme court
 4. *Amicus curiae* ("friend of the court") → briefs filed by one party on behalf of another
 5. Rule of 4 → 4/9 justices must agree to hear a case, if it is of constitutional merit or national importance
 6. Harmful error → errors made by judges that may be prejudicial to a defendant's case
- b. Define and explain the difference between geographical, hierarchical, and subject matter jurisdiction.
 1. Geographical jurisdiction → the authority of a court to hear a case based on legally defined boundaries; cities, counties, or states
 2. Hierarchical jurisdiction → distinction between courts at different levels, where one court is superior to another and has the power to hear appeals from lower court decisions.
 3. Subject matter jurisdiction → the type of case the court has authority to hear
- b. Describe and define some unethical actions of prosecutors (include backdoor hearsay, malicious prosecution, and exculpatory evidence).
 1. Backdoor hearsay → mention or comment about evidence against the accused that is not admissible evidence
 2. Malicious prosecution → when prosecutors bring charges against the accused with full knowledge that the accused is innocent of the crimes alleged
 3. Exculpatory evidence → testimony, or any form of evidence that show the innocence of the defendant
- b. Define ethical code and Rules of Criminal Procedure and describe how they guide prosecutors.
 1. Ethical code → rules of professional responsibility articulated by professional associations

Nys Court Clerk Study Guide

Charles L. Zelden



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Table of Contents Nys Court Clerk Study Guide

1. Understanding the eBook Nys Court Clerk Study Guide
 - The Rise of Digital Reading Nys Court Clerk Study Guide
 - Advantages of eBooks Over Traditional Books
2. Identifying Nys Court Clerk Study Guide
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Nys Court Clerk Study Guide
 - User-Friendly Interface
4. Exploring eBook Recommendations from Nys Court Clerk Study Guide
 - Personalized Recommendations
 - Nys Court Clerk Study Guide User Reviews and Ratings
 - Nys Court Clerk Study Guide and Bestseller Lists
5. Accessing Nys Court Clerk Study Guide Free and Paid eBooks

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- Nys Court Clerk Study Guide Budget-Friendly Options
- 6. Navigating Nys Court Clerk Study Guide eBook Formats
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 - Nys Court Clerk Study Guide Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Nys Court Clerk Study Guide
 - Highlighting and Note-Taking Nys Court Clerk Study Guide
 - Interactive Elements Nys Court Clerk Study Guide
- 8. Staying Engaged with Nys Court Clerk Study Guide
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Nys Court Clerk Study Guide
- 9. Balancing eBooks and Physical Books Nys Court Clerk Study Guide
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Nys Court Clerk Study Guide
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Nys Court Clerk Study Guide
 - Setting Reading Goals Nys Court Clerk Study Guide
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Nys Court Clerk Study Guide
 - Fact-Checking eBook Content of Nys Court Clerk Study Guide
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development

- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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