

CIVIL PROCEDURES CASES AND MATERIALS

CASENOTES ON CIVIL PROCEEDINGS

COMMENCEMENT OF PROCEEDINGS

Principle: Service of notice to an advocate is in all normal circumstances as good a service as one made to the advocate's client.

UNTA EXPORTS LTD VS CUSTOMS [1970 EA 645]

Goudie J held that:

- 1) Notice was properly given to the Advocate for the claimant where the Commissioner General of Customs gave that notice to an advocate with whom he had been in correspondence with and
- 2) No document is properly filed until the fees have been paid.

Principle: The Court of appeal can waive any procedural irregularity in the lodgement of an appeal.

MOTEL SCHWEITZER VS THOMAS EDWARD CUNNINGHAM AND ANOR [1955] 22 EACA 252

The memorandum of Appeal was filed on the 6th day of December 1954 but no decree upon judgment was drawn until 7th Jan 1955. a preliminary objection was taken by the respondents that the appeal was incompetent as no decree was in existence at the time of lodging the memorandum and that the appellant had failed to file the appeal in accordance with the rules. Sir Barclay Nihill held:

- 1) Rule 56 as aforesaid is procedural only and does not affect a substantive law by which a right of appeal is conferred by a municipal law. Its primary purpose is to provide that a notice of appeal can be given before any formal decree is drawn up.
- 2) An appeal is not instituted in the court of appeal until the record of appeal is lodged in its registry, fees are paid and security lodged as provided for in rule 58 of the rules.
- 3) By virtue of rule 72(1) of the Court of appeal rules, the court now has a right to waive an irregularity in the procedure.

Principle: An advocate who commences proceedings without the authority of the plaintiff incurs personal liability with regard to costs.

Civil Procedure Cases And Materials

N Colangelo



Civil Procedure Cases And Materials:

The Law of Civil Procedure Joel Friedman, Michael Collins, 2023-07-14 The Sixth Edition integrates all significant developments that have occurred since the last revision of this casebook in 2017 These changes include new principal cases that reflect changes in the law with particular emphasis on personal jurisdiction and a number of amended problems and notes to reflect all changes in such other areas such as the definition of citizenship for diversity purposes transfer of venue pleading and class actions The Sixth edition also includes a full discussion and analysis of all intervening Supreme Court and important lower court opinions and changes in the Federal Rules of Civil Procedure all up through May 20 2023 Any subsequent major decisions will be made available in an online Supplement **Civil Procedure**, 2010 Civil Procedure

Jack Friedenthal, Arthur Miller, John Sexton, Helen Hershkoff, Troy McKenzie, Adam Steinman, 2022-07-06 The Compact Thirteenth Edition of this very popular casebook is designed for three or four credit civil procedure courses It provides a framework for studying the essential and cutting edge issues of civil procedure in an accessible but rigorous way The authors of the prior editions Jack H Friedenthal Arthur R Miller John E Sexton and Helen Hershkoff welcome two new authors to their team Adam N Steinman and Troy A McKenzie The new edition reflects the uniqueness talents and special expertise of these new authors who individually and together bring tremendous new experiences and backgrounds to an author team already known for its excellence and distinction Adam N Steinman the University Research Professor of Law at the University of Alabama School of Law is an award winning teacher and scholar whose work has been cited in hundreds of articles and dozens of judicial opinions He is an author on the Wright Miller Federal and Practice Procedure treatise and an elected member of the American Law Institute He is also the co organizer of the Unavailability Workshop for Civil Procedure and the co editor of the Law Professor Blogs Network's Civil Procedure Federal Courts Blog Prior to joining the University of Alabama faculty he was a Professor of Law at Seton Hall University and the University of Cincinnati His practice experience includes both complex civil litigation and public interest appellate work Troy A McKenzie Professor of Law at New York University School of Law is an award winning teacher and scholar who has taken an active role in the procedural rulemaking process He is a member of the Council of the American Law Institute and has been appointed to the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States At NYU he co directs the Center on Civil Justice and the Institute of Judicial Administration Among his practice and public service experiences he served for two years as Deputy Assistant Attorney General in the Office of Legal Counsel at the U S Department of Justice The Thirteenth Edition like the predecessor editions upon which it is based is designed to reinforce doctrinal understanding to foster case reading skills to encourage critical thinking about the real world context of procedural decisions to motivate discussion about diversity inclusion and equity and the role of courts and civil procedure in promoting those values and to help develop a sense of litigation strategy in a world that is at once local and global The casebook covers all of the major topics that a professor

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Cincinnati His practice experience includes both complex civil litigation and public interest appellate work Troy A McKenzie Professor of Law at New York University School of Law is an award winning teacher and scholar who has taken an active role in the procedural rulemaking process He is a member of the Council of the American Law Institute and has been appointed to the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States At NYU he co directs the Center on Civil Justice and the Institute of Judicial Administration Among his practice and public service experiences he served for two years as Deputy Assistant Attorney General in the Office of Legal Counsel at the U S Department of Justice

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Civil Procedure Richard D. Freer, Wendy Collins Perdue, Robin J. Effron, 2024

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