

# CONTENTS

<b>CHAPTER I</b>	<b>Introduction</b>	<b>1</b>
<b>CHAPTER II</b>	<b>The Lawyer’s Task: Facts and Law</b>	<b>9</b>
	The Facts	10
	Facts of <i>DeWeerth v. Baldinger</i> as Summarized by the Trial Court	17
	The Law	21
<b>CHAPTER III</b>	<b>Deciding Whether to Sue</b>	<b>27</b>
<b>CHAPTER IV</b>	<b>Deciding Where to Sue: The Court System</b>	<b>31</b>
	Federal Court System	33
	A Note on “Civil” and “Criminal” Cases	37
	1. District Courts	39
	2. United States Courts of Appeals	42
	3. Supreme Court of the United States	43
	4. Other Federal Courts	44
	State Court Systems	45
	1. Trial Courts	46
	2. State Courts of Appeals	48
	3. State Supreme Courts	49
	The Best Court for Mrs. DeWeerth?	49

<b>CHAPTER V</b>	<b>Commencing a Civil Action</b>	<b>53</b>
<b>CHAPTER VI</b>	<b>The Complaint</b>	<b>61</b>
	The Content of Pleadings	63
	The Complaint's Legal Sufficiency— A Motion to Dismiss	65
	Decision on Motion to Dismiss	72
	<i>DeWeerth v. Baldinger I</i>	72
	A Note on “Briefing” Cases	77
<b>CHAPTER VII</b>	<b>The Common Law</b>	<b>81</b>
<b>CHAPTER VIII</b>	<b>How the Common Law Became American Law</b>	<b>91</b>
	<i>Kerwhacker v. Cleveland, Columbus &amp; Cincinnati R.R.</i>	97
<b>CHAPTER IX</b>	<b>How Lawyers and Courts Use Precedents</b>	<b>99</b>
	The Stability of the Common Law— Stare Decisis	100
	How Do Prior Judicial Decisions “Bind” the Courts?	105
	So How <i>Do</i> Precedents Exert Binding Force?	108
	The Flexibility of the Common Law	110
	<i>Hart v. Massanari</i>	118

<b>CHAPTER X</b>	<b>The Answer</b>	<b>123</b>
<b>CHAPTER XI</b>	<b>The Process of “Discovery”</b>	<b>129</b>
<b>CHAPTER XII</b>	<b>A Motion for Summary Judgment</b>	<b>135</b>
	<i>O’Keefe v. Snyder</i>	138
	<i>DeWeerth v. Baldinger II</i>	149
<b>CHAPTER XIII</b>	<b>Statutory Law and Administrative Regulations</b>	<b>157</b>
	What Statutes Are Supposed to Do	159
	How Statutes Get Enacted	163
	Administrative Regulations	165
	Interpreting Statutes	168
	Interpreting the Statute in <i>DeWeerth</i>	172
<b>CHAPTER XIV</b>	<b>The Trial</b>	<b>175</b>
	Selecting the Jury (Voir Dire)	178
	Opening Statements	180
	Presenting the Testimony and Other Evidence	181
	Plaintiff’s Case-in-Chief	181
	Defendant’s Case-in-Chief	183
	Plaintiff’s Rebuttal and Defendant’s Surrebuttal	184

	Motions for Judgment as a Matter of Law (or Directed Verdicts)	184
	Closing Arguments	185
	Charge to the Jury	186
<b>CHAPTER XV</b>	<b>The Judgment (and a Motion for a “Judgment N.O.V.”)</b>	<b>189</b>
<b>CHAPTER XVI</b>	<b>The Appeal</b>	<b>193</b>
	<i>DeWeerth v. Baldinger III</i>	197
<b>CHAPTER XVII</b>	<b>The Aftermath</b>	<b>211</b>
	<i>Solomon R. Guggenheim Foundation v. Lubell</i>	212
	<i>DeWeerth v. Baldinger IV</i>	216
	<i>DeWeerth v. Baldinger V</i>	217
<b>POSTSCRIPT</b>		<b>223</b>
<b>Appendix A</b>	<b>Extracts from Testimony of Gerda Dorothea DeWeerth</b>	<b>227</b>