

## Civil Legal Process

Most people receive their knowledge of the legal process from seeing someone on television charged with a crime and then thirty minutes later the person being tried. There is a prosecutor representing the government and the charged person has a criminal defense attorney. The civil (non-criminal) process is much different. The civil process begins with the filing of a complaint. This is a document that states why you are suing someone else. The party filing the complaint is called the plaintiff. The complaint begins what is generically known as the lawsuit. Once the lawsuit is filed, there are four ways that it can be disposed at the trial court level. The defendant, the party being sued, can file a motion to dismiss. If the motion is granted, then the case ends. The typical motion to dismiss is the statute of limitations. For example, the complaint is filed more than two years after a motor vehicle accident. If the defendant does not file a motion to dismiss, then the defendant must answer the complaint. This is a document that addresses the specific sections of the plaintiff's complaint as either admitted or denied.

This begins the expensive part of the process, discovery. In this part of the process, the parties exchange documents and take depositions (where the attorney questions the parties and witnesses or relatives under oath). After the discovery is finished, the second method of resolving the case occurs. The defendant moves for summary judgment whereas the defendant states if you assume everything that the plaintiff says is true, the defendant succeeds based on the law. In non-personal injury cases, motions for summary judgment are filed in many cases. If the summary judgment is granted, the case at the trial court once again ends. If the summary judgment is denied, then the case proceeds to the third method of resolving a lawsuit, trial. Less than 3% of civil cases that are filed go to trial. The fourth method is settlement. Most civil cases are resolved through settlement. In my opinion, the reason is most parties do not want to take the risk or go through the tension of a trial. As far as risk, it is difficult for both plaintiffs and defendants to turn their case over to a jury or a judge. Also, a trial is an unnatural process. Most people do not like being questioned by someone who can control the method of questioning.

The best line about civil litigation is to paraphrase the line about democracy, it is a terrible process, but it is the best we have. From my experience in most cases, the wheels of justice turn true. However, no one wants to be in a case where they do not.

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I am excluding divorce and small claims.

I am excluding the appellate process.

The plaintiff can also move for summary judgment.

