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### What to Expect - A Lawsuit Chronology

Whether you are suing someone or being sued, or being called as a witness, a lawsuit is a complicated legal process, and it can be full of unpleasant surprises and frustrating delays. Don't forget, there are at least two parties to every action, and that means the schedule and the events which take place can be out of your hands. Nonetheless, some things happen in the same order in most litigation, and you can at least get a general idea of what's likely to happen. It will also help to know some of the words and phrases that come up in a lawsuit.

The following chronology gives a general idea of how a lawsuit proceeds. Your action may be different because of differences between state laws and rules of civil procedure. Your attorney can help you understand exactly how your lawsuit will fit with this chronology-remember, your attorney works for you, and should clearly explain every step of the legal process.

- A civil action (as opposed to a criminal or family proceeding, for example) begins with a Complaint, usually accompanied by a Summons. A Complaint is a legal document that lays out the claims that the Plaintiff (the person or business bringing the lawsuit) has against the Defendant (the person or business being sued). Typically, a lawyer will prepare this document.
- A civil action is officially commenced in one of two ways. In some states and in federal court, filing the Summons and Complaint with the court commences the action. In many states, serving the Summons and Complaint on the other party commences the action. Some jurisdictions prohibit Plaintiffs from serving the documents themselves. In jurisdictions where an action is commenced by service, the action can go on for a long time before the court ever becomes involved.
- The Defendant has to answer within a certain time (usually about three weeks). The Answer says what portions of the Complaint, if any, the defendant admits to, what the Defendant contests, what defenses the Defendant may have, and whether the Defendant has claims against the Plaintiff or any other party.
- If the Defendant doesn't answer the Complaint, the court may enter a default judgment against the Defendant. If the Answer contains a counterclaim or a third-party complaint, the party against whom that claim is made also has to answer within a certain time.
- The parties exchange documents and other information about the issues relevant to the litigation, by a process called Discovery. Discovery can take three forms: written questions (usually Interrogatories) which must be answered under oath; document production; and Depositions, which are formally transcribed and sworn statements taken in front of a court reporter or other court officer. The information is used in preparing the case for trial.
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Note: If you are being called as a witness rather than involved as a party, discovery is the first of the phases during which you may get involved. Typically, third parties are involved in depositions, although in many jurisdictions there are provisions for written discovery and document requests to nonparties. If you do not want to be involved in discovery as a third party, and have a legally valid reason (rather than, say, just not wanting to), you should consult an attorney.

- Sometimes, the parties can voluntarily resolve all their issues through alternate dispute resolution such as mediation or a negotiated settlement. The parties can also agree to binding arbitration, and some contracts (insurance contracts and construction contracts, for example) require binding arbitration. Some states and the federal system require litigants in civil actions go through alternative dispute resolution in some form.
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Note: If a settlement is reached, the settlement agreement resolves all issues between the parties. Typically, the court is either not involved or is involved only informally. Judicial approval of civil settlements is usually only required when one of the parties is a minor, or when there is a class action, or in other special circumstances that do not typically arise in most litigation.

- In many cases, one or both of the parties will try to get rid of the case, or a portion of it, by motion. Basically, the parties present to the court those issues that are not in dispute, either because the parties agree as to the facts, or because application of the law to the facts dictates a result. This is a hard concept for lay people. The theory is that, if a claim or lawsuit cannot possibly win, it is better for the judge to deal with it before wasting time or money. Unfortunately, motion practice can be lengthy and expensive.
- If the parties do not reach an agreement, and if the matter is not disposed of by motion, the case will go to trial. In most civil cases, either party can choose to have a jury. The decision of whether or not to request a jury is an extremely important one, and seeking the advice of an attorney is highly recommended.
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- Trial is the other point at which third parties can become involved. The attorney for the party who wants you to testify may subpoena you for trial. Rules vary between jurisdictions, but typically there are requirements for subpoenas, both in terms of form and in terms of notice and payment to you as a witness. Typically, notice and payment requirements are unrealistically small. You should consult an attorney if you cannot attend, or if (as in the case of a professional) attending will cost you a lot of money.
- At trial, the attorneys (or the parties, if they are not represented) present evidence and arguments for each side, and the judge or jury decides the unresolved issues. Once the judge or jury has reached a decision, the judge will order that Judgment be entered for the party who wins. The judge may also order that one party pay the other's attorneys' fees, although such awards are unusual.
- Either or both parties can appeal a judge's decision to a higher court. But it's unusual for an appeals court to overturn a judge's decision. Also, remember that settlements usually cannot be appealed if both parties agree to their terms.

It's hard to say how long all these steps will take in your case. The entire process can take from as little as six months, to as long as years. In the case of witnesses, you can be called to testify at any time from shortly after the event to the better part of a decade after it happened. Generally speaking, the less money at stake, and the more issues that can be resolved before trial, the smoother and faster the lawsuit will go.

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