U.S. Tag Court

Plaintiff's Guide To Filing A Civil Case

Court Factual Information Sheet ISM-1

User is warned that publication does not contain legal advice.

Chapter 1: Do You Have A Case?

If you wish to file a case against another party, first you must ask whether you have a case. Ask yourself the following questions:

- Was I harmed by the other party?
- Did the other party's actions cause my harm?
- Are the other party's actions in violation of a law, public policy, or legal doctrine? (Another way of phrasing that may make more sense is whether the other party acted immorally. In general, immoral acts usually violate the law or legal doctrine).

If the answer to some (preferably all) questions is *Yes*, you may have a case.

I have a case. Now what?

The Court recommends that you try to settle informally. Try negotiating with the other party and see what happens. You may want to read up on how to negotiate with someone. If you reach a settlement, put it in writing. You will be surprised how often oral contract disputes come up. Remember that the foundation of contract law is *consideration*; you and the other party must each give up something (such as the right to pursue your claim and some amount of money, for example) to make the contract valid.

If you fail to achieve a settlement, your next stop might be court.

Chapter 2: Filing First Papers

Hopefully, you've read Chapter 1 and have a case. You have negotiated but the other party is unwilling to cooperate. Now, you can file a complaint with the court, formally opening your case. The court's official complaint form is located here, or you can find it by going to http://www.ustagcourt.org/forms and accessing Form C-1, Complaint for a Civil Case.

Note that the Court offers Form C-1 in DOCX and PDF format. Either one is acceptable; however the PDF has fillable form fields and is thus recommended.

How do you fill the form out?

Here is a general overview of how to fill out Form C-1.

Part 1: Identiification: This is self-explanatory.

Part 2: Claim: For the first line, where it asks you to cite applicable law, whenever practicible use the citation of the law (1 USC 101) or similar. However if your claim is based on a legal doctrine (common law or *malum in se*), list the legal doctrine.

For relief sought, note that in general money is what is used to settle a case and is usually what to put in the relief box. However in special circumstances injunctive or equitable relief (where the court orders a party to do something) can be asked for.

If you cannot fit your claim/relief sought onto Form C-1, you can attach additional pages. Please use 8.5x11 paper and write neatly. The Court reccomends typing all court documents.

How do you file the form?

After filling in the form, filing it is much easier. All you have to do is print the form out and hand it to the judge. Unfortunetly, no E-File option is provided (yet). Be sure to arrange to provide the opposing party (the *defendant*) a copy of these papers. This is called *service of process* and is very important; the case might be dismissed without service!

Chapter 3: Discovery

After reading Chapter Two, you should have filed court papers (aka the *Complaint*) with the Court. Now begins the pretrial phase and one of the most important parts of this phase is *discovery*.

The Scheduling Meeting (or Hearing)

Before engaging in discovery, there is a scheduling meeting (or hearing). You and the other party should both attend this important meeting.

Before the meeting:

- Know what the timetable of the case might be and
- File a Proposed Case Schedule (or a Case Schedule Motion), either jointly with the other party or individually (by yourself).
- The judge will schedule a date for this.

During the meeting:

- The judge will have read the motions and will listen to your proposed schedule and the reasons for your schedule.

After the meeting:

- The judge will issue a *Scheduling Order*, which will be given to you and will be avaliable online at https://tinyurl.com/ustcdockets
- You should scrupulously follow the schedule to ensure that you, the opposing party, and the court encounter no unnecessary delays.

What is discovery?

Put simply, discovery is the process where relevant information for the case is given to the other party. The plaintiff can engage in discovery as well as the defendant.

Note: After filing your complaint (see Chapter Two), you (the suing party) are now referred to as the Plaintiff and your opponent is the Defendant.

There are a few different types of discovery:

- *Depositions,* in where one party verbally questions the opposing party, or a witness;
- *Interrogatories,* in where one party sends questions to the other party (not a witness).
- *Requests for Production of Documents,* in where one side *requests documents;*
- *Requests for Admission*, where one side requests the other to admit some facts.

What is a deposition?

A deposition is a proceeding where you verbally question either the opposing side or witnesses. There are a few reasons why you might want to conduct a deposition:

- To *perpetuate* (preserve) a witness's testimony, if that witness is moving away/sick or any other reason why they can't appear at trial
- To be able to *impeach* (attack) a witness's testimony at trial if they tell a story differently at trial then at deposition
- To get evidence or clear up items that may appear at trial (the fundamental purpose of discovery).

How to conduct a deposition and what are the procedures governing a deposition?

If you want to conduct a deposition, there are differing rules based on whether the scheduling order included it. If it did, you can go straight ahead and send a Notice of Deposition to the deponent. If not, first ask the court for authorization with a Motion for Special Deposition/Interrogatory. File it in a similar manner to the complaint (see Chapter Two, *How do you file the form?*). Now you must wait for the court to issue an *Order for Deposition*. After receiving the Order, send the party to be deposed a Notice of Deposition containing an actual date where the deposition will occur.

Tip: Instead of keeping track which documents you have been served, you can head over to the official docket website, https://tinyurl.com/ustcdockets and viewing your case there. Posting by the court on the docket website does not constitute service of process.

For more info on depositions, see ISM-10, *Depositions.*

What is a interrogatory?

An interrogatory is when you send written questions to the other party. Unlike a deposition, you can only send questions to the opposing party, not to a witness. Interrogatories offer the chance to gain *corporate knowledge* (knowledge within an organization and records held by the organization).

I want to send a interragatory. How?

Simply mail/give the opposing party your interragatory. In general, the opponent has 20 days or so to respond.

What are Requests for Admissions?

They are similar to interragatories where you give the opposing side statements to admit to or to deny. If you admit, the matter is generally considered closed and cannot be reopened. You must respond to one within a set time period; if you don't, each and every one of the statements will be deemed as admitted. You can answer with either an admission, a denial, or a statement that you don't know the answer (lack of information, etc.)

What if I get in a discovery dispute?

The discovery rules can be very complex, and sometimes you and opposing parties may have a different view of the rules. In this case, fret not! The Court can resolve this issue. You need to file a discovery motion with the Court. The Court will resolve the issue.

Chapter 4: Pretrial

What are the goals now?

After you've finished discovery, the goals of the pretrial phase are to get the case ready for trial. This means preparing for trial, and narrowing down the issues.

What should I prepare for?

You can refer to the Court's Trial Guide, which is also summaized in Chapter 5.

How do I narrow down the issues?

The Court will hold a final pretrial conference close to the trial date. Before the conference, you should discuss with the other party what the issues are. You should jointly submit this to the Court before or during the conference, listing the issues you still disagree with. During the final pretrial conference, the court will develop a trial plan.

What about witnesses?

Now is also the time to make trial arrangements with witnesses. If needed, you can use a subpoena to compel the attendance of witnesses. You can access Form C-300 online at the Court's website. Fill it out, and print it and ISM-6.

What is a motion *in limine*?

A motion in limine is a motion to include or exclude certain evidence from a trial. Usually used in jury trials, it protects the jury from hearing inadmissible information.

What is summary judgement?

It's essentialy a trial on paper. For more information, refer to ISM-5, *Summary Judgment*.

Chapter 5: Trial

This chapter gives an overview of trial. More detailed trial information is availiable in ISM-3, Trial.

What are the stages of trial?

The stages of trial are:

1. Jury selection (for jury trials)

2. Opening statements
3. Direct examination
4. Cross-examination (redirect and recross if needed)
5. Closing argument.

What is *voir dire*?

Voir dire (French for *to speak the truth*) is the process for jury selection. Parties question the jurors to ensure they are impartial. A party can challenge *for cause,* asking the judge to excuse the juror because they are biased. They also get a limited number of *peremptory challenges*, essentially get-out-of-jury-free cards.

How do I make my opening statement?

An opening statement gives a roadmap to the evidence. It's most important in jury trials. You can summarize your evidence, running down witnesses and evidence. But save argument for closing!

What's direct examination?

In brief, direct examination is where you have the witness testify before the Court for evidence. You do this by asking them questions. Most attorneys get started by having the witness tell a little bit about themselves, then moving on to questions about the case, usually in chronological order. Leading questions (questions that suggest an answer).

For more details on direct examination, see ISM-3, *Trial.*

What's cross-examination? Is it as in the movies?

Cross-examination is the questioning of a witness by an adversarial party. It's not as dramatic as TV would like you to believe. In this mode, leading questions are allowed, and your goal is to undermine the witness's testimony.

Refer to ISM-3, *Trial*, for detailed cross-examination info.

What's redirect and recross?

Redirect is an optional procedure where you can try fixing some of the issues uncovered by your adversary during cross-examination. Recross may also be allowed, giving the opponent a chance to question the witness again.

How do I present evidence?

To make sure your evidence is authenticated, you have to establish a foundation for the evidence. You do this by having a witness testify to the authenticity of the evidence. Then, you can move for the judge to admit your item into evidence.

For a full procedure, see ISM-3, *Trial*.

How does closing argument work?

Closing argument is your chance to convince the judge or jury that your position is right. You do this by taking the evidence and arguing based off it. You can take advantage of the cross-examination testimony to try and weaken your opponent's witnesses and evidence. Ideally, you

should weave the evidence and the law into your closing argument, persuading the judge or jury why they should rule for you.