

## CIVIL LAWSUITS TAKE PATIENCE BUT ARE WORTH THE TIME

### El Derecho Del Pueblo

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### The People's Right

A column of social commentary and legal advice by attorney and teacher Matthew "Mateo" Katz.

What do you do when someone runs into your son's car, causes thousands of dollars in medical expenses, all but destroys the auto, and the negligent driver has no insurance?!? What should you do if your neighbor's dog jumps over its fence, onto your porch, and bites a huge gash in your leg, without you having done anything to provoke it? What can you do if someone in your neighborhood spreads hateful gossip and lies about you to dozens of people in the area?

As most people know, you can file a lawsuit against the wrongdoer in any of the above three cases. The accident-causing driver can be sued for negligence, as can the dog owner. The gossipy neighbor can be sued for defamation. But, what most people don't understand is the process which your case will follow as it goes through the court system. This process is what I will explain in this article.

**STEP ONE:** *Demand letter.* Depending on your lawyer and your preferences, the first step for any law office is to investigate the facts and then to decide whether to send a demand letter asking for payment for the wrongful conduct. This letter gives the defendant-to-be the chance to pay for the damage done before any lawsuit is filed and to avoid paying extra attorneys' fees and court costs in the event s/he is found liable after trial. Usually these letters give fifteen or thirty days to respond.

**STEP TWO:** *Filing suit.* Many law offices skip step one and immediately file the lawsuit. A lawyer will draft the "complaint" and file it with the clerk of the court, together with a copy of the complaint and a "summons," which the Sheriff will deliver to the defendant (the person being sued). The defendant will usually have thirty days from the date of delivery, called "service of process," to come to the courthouse and file an "answer" to the complaint.

**STEP THREE:** *The answer.* After receiving the summons and complaint, the defendant has an opportunity to hire an attorney and/or draft an answer to the complaint, in which s/he confirms or denies the allegations within the complaint. This answer and an “appearance” of the defendant must be filed with the clerk.

**STEP FOUR:** *Pre-trial hearings.* Once the defendant files an appearance, the clerk of the court assigns a judge to the case and informs both parties of when and where the first court hearing will be. In some cases the courts order mandatory arbitration, where both sides are sent to an administrative judge to see if a settlement can be worked out in the case and to ascertain whether the case is of significant value or not.

**STEP FIVE:** *Discovery.* This is the stage at which both parties to litigation can obtain, study and question documents, evidence and witnesses to the events involved. This stage often takes several months, as either party can require witnesses to participate in a “deposition” or question and answer sessions with a court reporter present, usually in one of the attorneys’ offices.

**STEP SIX:** *Trial.* This is the most important stage of the proceedings, where each side presents its witnesses, evidence, and gives argument to the court, often before a jury. Trial can take anywhere from several minutes to several weeks, depending on the amount of information involved in the case.

**STEP SEVEN:** Verdict and judgment. After trial, the jury deliberates and comes up with a verdict: whether the defendant is liable or not liable, and the amount of any money judgment against a liable defendant.

**STEP EIGHT:** *Appeal.* Either side, if they lose, can appeal the judgment of the trial court to an appeals court.

Okay! So there you have it – this is the long process by which a lawsuit reaches an ultimate decision. This process requires great patience, yet where you have a meritorious case, it is usually well worth your while, because a wrongful defendant has to pay!

