





OVERVIEW FOR A TYPICAL CIVIL SUIT

The goal of this handout is to help you better understand the process of a civil suit and what your role is in the process. Please note, if you are under the age of 18, a parent, guardian, or other person who is qualified under the law will be appointed and named in the lawsuit for you. Any legal services provided by the ACLU of South Dakota are free of charge.



THE INVESTIGATION



YOUR DEMAND LETTER



COMPLAINTS & ANSWERS



This may include interviews, by an attorney, with you and other witnesses and gathering documents. A lawyer will research the law to make sure there's good reason to sue.



It's possible to reach an agreement on your

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Your Complaint is the legal document that starts a lawsuit. After receiving it, the defendant must file and prepare an Answer to the Complaint outlining their response.

civil suit without going to court. This typically begins with a demand letter that summarizes the case and offers to negotiate.



DISCOVERY



A MOTION TO DISMISS



PRETRIAL



In discovery, each party involved may use various legal tools for finding evidence, including written questions requiring written answers, requesting documents, and taking depositions.

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In essence, a motion to dismiss says to the court, "Even if you believe everything the plaintiff said in the Complaint, the defendant should win the case right now without going to trial."

Requests for emergency help from a court can be decided without witness testimony but sometimes involve a hearing that resembles a short trial.



MOTION FOR SUMMARY JUDGMENT



SETTLEMENT NEGOTIATIONS



In essence, a motion for summary judgment says, "There is no disagreement about the facts of the case, so the court should decide the case now without going to trial." The court can deny a motion for summary judgment if there is a disagreement about the facts or if the side making the motion does not have a legal basis to win.

At any stage of the process, parties can negotiate about agreeing to settle the case. Many courts require that the parties at least try such negotiations before trial during a meeting with a mediator.



APPEAL







A party who believes the trial judge made mistakes when deciding the case can ask a different court to review what they claim are the mistakes. This is called an "appeal." If the case is not resolved by a motion and has not settled, it will go to trial. Trial is a process by which a jury will decide which version of the facts is true.

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