

Civil Legal Procedure: Step 1 - Pleadings

- PLAINTIFF (whoever is bringing lawsuit) files a COMPLAINT (stating a legal claim, and asking for relief from the court) with Court
- DEFENDANT (party against whom plaintiff is claiming) files ANSWER
- DEFENDANT may file MOTIONS (asking the court to rule on things like, "Is this the right court?" or "Did the plaintiff state enough to make this a legal case?")

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Step 2: Discovery and other Pretrial

- Costly Process where Additional Facts are Uncovered
- Can use
 - INTERROGATORIES (answering written questions)
 - DEPOSITION (orally answering questions under oath)
 - Document Requests
- Motion for SUMMARY JUDGMENT (asks judge whether there is no issues of fact / only issues of law, and hence no need to undergo trial)

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Step 3: Trial

- Opening Statements by Attorneys
- Plaintiff puts on "Case in Chief:" must show evidence and arguments to satisfy all requirements of legal claim
- Defendant may make motion for DIRECTED VERDICT (asking judge that plaintiff has not met burden of proof)
- Defendant offers evidence, including possibly AFFIRMATIVE DEFENSE (reason to not hold liable even though plaintiff had proven case)
- Closing Arguments
- VERDICT (by jury), followed by JUDGMENT (final decision by judge)

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Step 4: Appeal

- Either side can APPEAL (ask higher court to review) based on Error in Fact, Error in Law, or both
- Standard for Error in Fact: "CLEARLY ERRONEOUS" – most courts give great Deference to Trial Court's findings of fact
- Standard for Error in Law: "DE NOVO" (from the new)
- When reviewing errors of law, courts must follow PRECEDENT (earlier decision stating a legal rule) of a higher court

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Appellate Courts

	State System		Federal System
Higher	State Supreme Court	--->	U.S. Supreme Court
	State Appellate Court		U.S. Circuit Court of Appeals
Lower	State Trial Court		U.S. District Court

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Hierarchy of Law in American System

- Constitution
- STATUTORY LAW (by legislature)
- Binding COMMON LAW (judge-made) Precedent
 - Must follow binding precedent from higher court in your jurisdiction
 - Decisions from other jurisdictions are PERSUASIVE AUTHORITY (courts may use to support decision, but do not have to follow)
 - Do Supreme Courts have to follow Precedent?
 - STARE DECISIS (let the decision stand): Unless there is a good reason to change the legal rule, Supreme Courts will follow decisions of prior Supreme Courts
 - This reduces Uncertainty

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