

Litigation Process

The American litigation process is generally as follow.

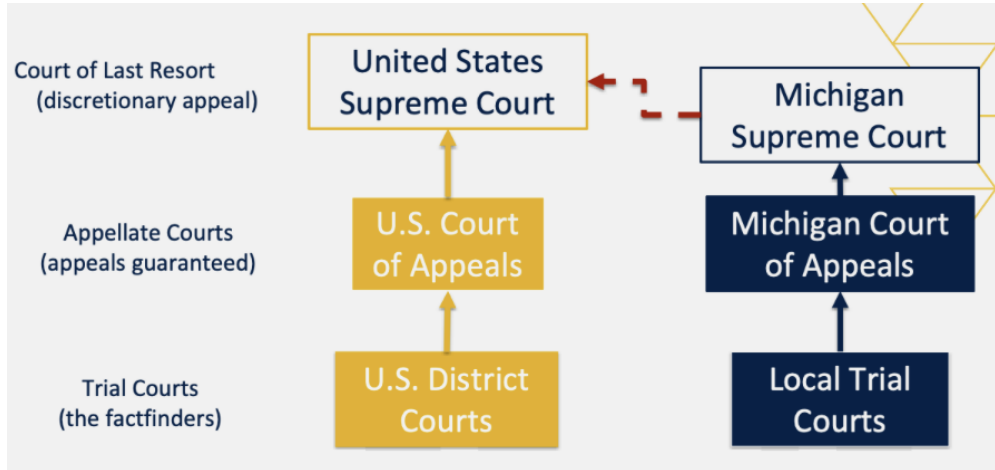
1. Plaintiff files a **complaint** (and defendant files an answer)
 - In order to file a lawsuit, a plaintiff needs
 - **Source of Law**: state or federal law?
 - **Personal jurisdiction**: which *states* have the power to hear the claim?
 - **Subject-matter jurisdiction**: which *courts* have the power to hear the claim?
2. Parties conduct **discovery**
 - Reposition - oral testimonies
 - Interrogatory - written testimonies
 - Request for production
3. Trial court conducts a **trial**
 - Fact-finders
 - Judge
 - Jury
4. After evidence is presented, winner is decided
 - Summary judgement
5. Losing party chooses to **appeal**
 - Appellate courts

Source of Laws

United States hold a **dual legal system**.

- Trial courts (fact-finders)
 - Appellate courts (appeals guaranteed)
 - Court of last resort (discretionary appeal)
- Federal law
 - Securities regulation
 - Intellectual property
- State/federal law
 - Criminal law
 - Employment
- State law
 - Agency

- Torts
- Contracts
- Entities



Personal Jurisdiction

A state has personal jurisdiction if any of the four circumstances are true:

- Consent
- Citizenship
 - For states, this is their headquarter or incorporation location
- Service (Individuals)
 - If the individual physically **hands papers** to the defendant within a state, then that state has jurisdiction
- Long-arm statute
 - A state may reach out and grab an individual or entity to take the case. The following needs to be satisfied
 - The basis of the lawsuit must occurred in **the state**
 - The defendant must have Minimum contacts with **the state**
- Mallory Rule (Business)
 - Personal jurisdiction for out-of-state business exists if
 - State law requires an out-of-state company to register before doing business in the state
 - The state's foreign business registration statute requires any registered company to agree appear-in-state in response to any cause of action

Subject Matter Jurisdiction

Most states courts are courts of general jurisdiction - meaning they have the jurisdiction to hear cases of any subject matter. State courts **MUST** hear all state law claims.

A federal trial court has SMJ if either of the following are true

- Diversity Jurisdiction
 - Diverse citizenship is both parties and claim > \$75,000
- Federal Question Jurisdiction
 - The case must involve a federal question arising under federal law

Important

Definition 1.1: Summary Judgement

A decision made based on statements and evidence without going to trial. Summary judgement can be reached, when

- There is no factual dispute
- Decision reached as a **matter of law**

Note

Facts influence people's behaviors. Lots of parties will decide to **END** the lawsuit after **discovery**, where lots of *unwanted* evidence may be presented.

Discovery is a process that only exists in the U.S. litigation system. It is often viewed as extremely time and resource-consuming.

Class Action

Important

Definition 1.2: Class Action

A class action is a legal proceeding in which one or more plaintiffs bring a lawsuit on behalf of a larger group, known as the class.

The motivations of having a class action as opposed to individual lawsuits include

- Economic efficiency
- Larger impact due to collective efforts
- Larger pool of audience and therefore more legal resources
- Consists a larger case for the court's consideration

To hold a class action, **commonalities** must be achieved.

- The class members' claims share common questions of law or fact
 - The class action **DOES NOT** interfere discretionary acts
 - Individuals suffer from the **SAME** level of **legal injuries**

Miscellaneous Definitions

Important

Definition 1.3: Minimum Contacts

A non-resident defendant may have minimum contacts with the forum state if they 1) have direct contact with the state; 2) have a contract with a resident of the state; 3) have placed their product into the stream of commerce such that it reaches the forum state; 4) seek to serve residents of the forum state; 5) have satisfied the Calder effects test; or 6) have a non-passive website viewed within the forum state.