

What are the typical steps in a lawsuit?

The basic steps in a formal lawsuit include:

- (1) Demand: Typically there is a dispute and one party will make a more or less informal "demand" of the other, who will then send a "response". This may lead to informal discussions. A lawyer can help you assess whether what you are requesting or offering is realistic, and help you avoid making admissions that can hurt you if you can't agree on terms.
- (2) Lawyer's letter: If the principals can't work things out among themselves, one party usually has an attorney send a "lawyer's letter". While there may not be any legal significance to a lawyer's letter, it usually gets a serious response from the other side, which may have been ignoring you. In some states it is necessary to make a formal demand before you can file suit, and the lawyer's letter should do that for you.
- (3) Pre-litigation settlement discussions: There often is an informal "pre-litigation settlement discussion" involving the parties and their lawyers. Sometimes all it takes is a letter and phone call to straighten things out, particularly if the other side sees that you are serious.
- (4) Formal suit: If the informal attempts at resolution fail, formal action may be started by "filing suit". The formal litigation is underway. There are strict "statutes of limitations" which impose time limits requiring that actions to be initiated be within a set time frame or the right to sue is barred.
- (5) Answer: Once the defendant is "served" with legal process, it must provide its formal "Answer" within a prescribed time frame. If the defendant does not answer on time it is said to "default" and generally will automatically lose its case.
- (6) Discovery: A lawsuit may involve "pre-trial discovery" in which one or both parties attempt to get evidence as to what happened, perhaps by taking the testimony of witnesses, or examining documents or physical evidence.
- (7) Motions: In a lawsuit either side may make "motions" to try to narrow the issues, or compel the other side to do something, or even to have the court decide the matter without the need for a trial, as if all the facts are agreed to and only the application of the law to the facts is at issue.
- (8) Judge's pre-trial conference: Before a trial the court will typically order a "pre-trial conference" to narrow issues down still further, and perhaps to get the parties to agree to a settlement.
- (9) The trial: Then comes the "trial", either by a judge alone, or with a jury to decide the facts and the judge to decide the law. By the way, despite the OJ Simpson trials, most trials are relatively dull, and only the parties, their attorneys, the witnesses and the judge and jury (and perhaps some folks trying to get out of the cold or heat or rain) are present – no TV cameras, no newsmen, no "fans" and few friends or relatives.
- (10) Judgment: After the trial the court will "enter judgment" such as, "The plaintiff is entitled to recover \$15,420."
- (11) Post trial motions and appeals: There may be "post-trial motions" in which the losing party tries to convince the original judge that something else is appropriate, perhaps more money, or added relief. After that, there may be an appeal by the losing party to a higher court.
- (12) Collecting the judgment: The victorious party may have received a judgment stating what he or she is entitled to recover. Then it is his or her job to collect the "judgment". Collecting judgments can be difficult, especially if the defendant's assets are not easily located, or exempt from claims of creditors.