

LITIGATION OVERVIEW FOR EMPLOYERS

The process, the terminology, and your legal obligations when you are sued

WHAT'S IN A COMPLAINT?

- List of legal duties Defendant allegedly failed to meet
- List of background facts
- “Relief” the Plaintiff requests – usually money or some action

STAGE 1: INITIAL PLEADING

- Plaintiff (employee) files a complaint alleging the legal obligations the defendant (employer) has failed to meet, as well as a demand for “relief” (monetary compensation or a specific action)
- Defendant files an Answer within 20 days that admits or denies all allegations
- With advice of counsel, Defendant plans resolution options through trial, mediation, arbitration, or settlement, considering issues such as budget, evidence, publicity, and priorities

STAGE 2: DISCOVERY & MOTIONS

- Attempt to eliminate the claims against you
- Each side must collect and exchange documents, electronic files, and physical evidence that may support claims/defenses
- Witness depositions provide information on facts and expert knowledge
- Settlement possibilities may change

WHEN DOES LITIGATION BEGIN?

Officially: When the Complaint is filed. BUT courts may look back to the moment someone decides to formally enforce or defend a legal right. Ask your lawyer how to prepare.

STAGE 3: PRETRIAL

- Update from your attorney on case progress, forecast, and resolution options
- Prepare documents and witnesses for trial
- Judge will push parties to settle at mandatory settlement conference

STAGE 4: TRIAL

- Your attorney examines prospective jurors to determine qualifications and suitability to serve at trial
- Both sides propose Jury Instructions to educate the jury on the law and what can be considered evidence
- Both sides present opening statements, direct and cross-examinations of witnesses, key pieces of evidence, and closing arguments

STAGE 5: APPEALS

- A “losing” party may seek reconsideration of all or part of a trial court’s order within 30 days
- Parties file briefs, replies, and – if the appellate court requires – present arguments at hearing
- Decision time varies – the appellate court may take as little as a month or over a year to decide

LITIGATION GLOSSARY

Appeal: request to a higher court to change all or part of a lower court's decision.

Attorney-client privilege: the protection over communications and advice between a client and their counsel in the course of legal representation. The privilege may be lost if the client discloses the protected information (waiver).

Brief or Motion: written document to request some action by the court; may require explanation of the law and include evidence.

Depositions: oral testimony under oath before trial.

Discovery: the process of identifying and collecting information that might be relevant to litigation.

Expert Witness: a person qualified to provide a specialized opinion about the evidence or facts in a case.

Hearing and Conference: live meeting of attorneys for the parties before the judge to present arguments, plan litigation process, or negotiate agreements.

Litigation: formal dispute resolution process to enforce a legal right between two or more parties.

Litigation Hold: an internal process that an organization undergoes to preserve all data that might relate to a legal action involving the organization. A litigation hold temporarily suspends the normal retention policies applicable to data to ensure that the data is available for the discovery process prior to litigation.

Interrogatories: written questions to be answered under oath.

Lay Witness: a person with personal knowledge about relevant facts.

Order: a judge's decision on a matter.

Protective Order: a direction of the Court to screen certain information from public access. Examples include individual's health information, company trade secrets, and witness identities.

Subpoena: a legal document commanding a person to testify as a witness.

Summary Judgement: a final decision on a Complaint before trial.

Trial: formal presentation of evidence and arguments to a judge and jury for their decision on a dispute.

Verdict: the Court's decision.



QUESTIONS? LET'S TALK.
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