

GENERAL FEDERAL CIVIL LITIGATIONS TERMS AND DEFINITIONS

BY JEAN SOO PARK, ESQ., AND JEFFREY NÚÑEZ

Are you considering filing a civil complaint in federal court? Do you already have a civil case? Whether you are a plaintiff or defendant, this resource contains basic terms and definitions to help you better understand the civil litigation process.

Affidavit: A written statement including facts, which are confirmed by oath or affirmation. Affidavits can also be used to confirm documents or materials were served to the plaintiff or defendant.

Answer: A written document by the defendant that responds to the plaintiff's complaint. An answer responds to facts alleged in the complaint by denying the facts, admitting to them, partially admitting and partially denying, or stating that the facts lack sufficient information or knowledge, and are unable to admit or deny an allegation. The defendant may also include defenses. For example, if the statute of limitations has expired, if the complaint was not properly served, or if the court lacks jurisdiction over hearing the case.

Arbitration: A procedure that takes place outside of court proceedings and with different rules about admissible evidence. Arbitration often takes place before litigation (legal action) starts. Sometimes litigation is "stayed" (placed on pause) because arbitration is required by a contractual provision or a statute. In arbitration, the third party (arbitrator) acts like a judge in and out-of-court.

Complaint: A document that needs to be filed with the court to start a case. A defendant is served when this legal paper is handed to them, letting them know they are being sued. The complaint names the defendants, provides facts to support the legal claims raised and states the type of relief requested (e.g., money damages, declaratory relief, injunctive relief.)

➤ **Amended Complaint:** A new complaint, that replaces the original one, usually adds and/or removes facts and/or claims. An amended complaint can be filed before a complaint is served to the defendant, by agreement between the parties (usually the lawyers representing each side), or when the Court permits it.

Damages: Monetary compensation the Court approves if it is shown that the defendant(s) breached a duty owed to plaintiff or otherwise violated the plaintiff's rights. Generally, there are two types of damages: compensatory (intended to reimburse a party for a loss or an injury), and punitive (intended to punish a wrongdoer).

Defendant: A party who is sued in a civil lawsuit (or the party charged with a crime in a criminal prosecution).

Discovery: A process where the plaintiff and defendant(s) provide information relevant to the claims or defenses in the case in response to requests served by the opposing side. Discovery responses are made under oath. Each side can ask for the following:

- Interrogatories: questions requiring written answers
- Document production: documents concerning particular subjects
- Depositions: meet with witnesses to ask questions and obtain testimony
- Admissions: request that the other party admit the truth of a statement

In forma pauperis ("IFP"): Latin for "in the form of a pauper," refers to a petition by a litigant who is unable to pay the court filing fees. If the judge approves the request, case/court filing costs will be waived, and you may proceed with your case. A judge must issue an order for this designation to apply.

Jurisdiction: the legal authority for a court to hear and make a decision on a case (subject matter jurisdiction), or the authority of the Court to make decisions regarding the party being sued in the particular court (personal jurisdiction).

Mediation: a process in which the parties attempt to settle a legal dispute with the participation of a third party (mediator.) The mediator tries to find points of agreement and helps both sides agree on a fair resolution of the case (aiming for settlement). Mediation differs from arbitration. Mediation can take place at any stage during the litigation and more than once.

Motion: a formal request made to a judge for an order or judgment. Motions are made in court during any stage of the litigation and for many reasons including for an extension of time to meet filing deadlines, for dismissal of the opposing party's case, for a final judgment, for a rehearing, or for sanctions (payment of the moving party's costs or attorney's fees.)

- **Motion to Dismiss:** A request by a defendant to the Court to dismiss the complaint. The defendant must file a motion to dismiss before filing an answer. At this point, the defendant does not admit or deny allegations, but rather, raises defenses which, if proven, require dismissal. One common ground for dismissal is known as "failure to state a claim on which relief can be granted." This argues that even if the facts alleged in the complaint are true, they do not support the plaintiff's legal claims.
- **Motion for Summary Judgment:** A request for a court to rule in favor of one party and against another party without a trial. Summary judgment is granted if the party who files the motion establishes that there is no dispute about the facts and only a question of law needs to be decided. The motion is often filed after discovery stage where information learned during discovery is usually relied upon by the party making the motion.

Plaintiff: A party who starts a lawsuit by filing a complaint against the defendant(s), usually demanding damages, performance and/or a determination of rights by a judge. The plaintiff carries the burden to prove the claims brought against the defendant.

Settlement: The resolution of a legal dispute, either before or after filing a complaint. It may occur before or after filing a complaint. Settlements are achieved through negotiations or mediation once all parties have agreed upon the terms to resolve the dispute. A presiding judge can assist in the settlement process by mediating discussions.

Statute: A written law enacted by a legislature (federal or state). Claims included in a complaint usually rely on specific statutes.

NEED LEGAL HELP?

Are you considering filing a federal civil complaint? If so, please review our tip sheet on things you should consider before filing:

5 W's TO CONSIDER BEFORE FILING A FEDERAL CIVIL COMPLAINT

Do you already have a case in federal court but need more time? Please review this resource about requesting an extension of time:

ASKING THE COURT FOR AN EXTENSION OF TIME

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