

## Civil Cases

Courts are established to resolve disputes. Courts follow rules to examine the evidence (facts), and then decide what really happened and what should be done about it according to the law.

In civil cases, courts settle disagreements between two people, businesses, or organizations. The disagreement usually involves one person believing that he or she has been hurt or had rights violated or property damaged by another person. A civil case is not a criminal case.

Courts reach their decisions by listening to both sides of the case. This is called the *adversary process*. Each side, called a party, presents the facts that best support its side. The parties also bring up the weaknesses of the other side's arguments. In the end, one party wins and the other loses. The answer is decided according to the law.

The party starting the case is called the plaintiff, and the party being sued is called the defendant. In most civil cases, the plaintiff is asking for an amount of money to be paid by the defendant. However, in some civil cases, the plaintiff may be asking the court to tell the defendant to stop some behavior or to do a specific thing. The plaintiff is responsible for paying the filing fees as well as the cost of serving the defendant.

The most common types of civil cases are small claims, landlord-tenant, land contract forfeiture, civil infraction (both traffic and nontraffic), and civil damage actions.

### Where Civil Cases Are Filed

The **district court** handles cases if the amount of the claim is for \$25,000 or less. The case can be filed in the district court where the incident occurred or in the district court where the defendant lives. The filing fee varies with the amount of the claim.



The **circuit court** handles the case if the amount of the claim is more than \$25,000. The case can be filed in the circuit court where the incident occurred or in the circuit court in the county where the defendant lives.

For disputes involving up to \$7,000, the plaintiff can choose to file the case with the **small claims division of the district court**. The defendant can agree to have the case remain in small claims or can request the case be removed to the regular civil division. An attorney may not represent the parties in the small claims division.

The **probate court** handles civil cases arising from dispute in probate matters such as an estate, a trust, or a guardianship or conservatorship. The civil case must be filed in the county where the probate court matter is being handled.

### Preponderance of the Evidence



Civil cases are decided by the “preponderance of the evidence” (more likely than not; the slightest tipping of the scales). This is because money – not liberty (e.g. jail), could be lost.

# Court Process for Civil/Domestic Relations Cases

With some exceptions, such as small claims and civil infractions, most civil cases are processed the same way. The end result of the case will be entry of a judgment.

## Complaint Filed, Fees Paid, Notice Served

A lawsuit begins when a plaintiff files a complaint with the proper court. The complaint identifies the parties involved and describes the nature of the grievance and the remedy sought. The court issues a summons, and a copy of the complaint and summons is served on the defendant, who must respond within 21 days.

## Complaint Answered

The defendant responds to the complaint by filing an answer in the same court. If the defendant does not file an answer within the required time, the court may enter a default judgment in favor of the plaintiff.

## Relevant Facts Discovered

Discovery allows all parties to get all the relevant facts in the lawsuit. Most discovery includes asking questions of parties and witnesses through written questions (interrogatories) or through oral questions under oath (depositions), and reviewing documents.

## Pretrial Procedures

Pretrial procedures are designed to conclude or settle a lawsuit without going to trial. These events include various conferences, case evaluation, and mediation.

## Trial Procedures

A case may be tried before a judge or before a jury. At the trial, opening statements are made by each party explaining the nature of the case, what evidence is going to be presented, and what facts are going to be proven. Next, the parties present their case, call their witnesses, and provide their evidence. The plaintiff always goes first, followed by the defendant. The parties have additional opportunities to examine and cross-examine one another's evidence or witnesses. The trial is often concluded by a final argument from each party. After the trial, the jury or judge will arrive at a verdict.

## Judgment

A judgment must be prepared once a settlement is reached, a verdict is entered, or a default is entered (if the defendant did not answer the complaint). In most cases, the judgment is prepared by the party that "won" the case and entered by the court.

## Postjudgment Procedures

Postjudgment procedures provide the parties with the means to enforce a judgment or to appeal a judgment and to assess costs associated with the case.

## Civil Infractions

Civil infractions are matters in which a Uniform Law Citation (ticket) is issued, claiming a person broke a state or local law carrying a penalty that does not include jail. Common traffic civil infraction cases are speeding, careless driving, and failure to wear a safety belt. Nontraffic civil infraction violations include disobeying state land-use rules (such as in state forests or campgrounds) and violations of city, village, or township ordinances regulating the disposal of refuse and yard waste, building codes and permits, and excessive noise.

A ticket may be disputed in a court hearing. To request a hearing, follow the directions on the back of the ticket.



## Michigan Legal Help

Where can people go if they have legal problems but aren't sure of the next steps? The [Michigan Legal Help](#) website is a great place to start.

- The [Guide to Legal Help](#) tool asks questions to help identify a legal problem and to find the community and legal resources available.
- A chat forum assists users.
- Resources include toolkits, articles, forms, and videos.

In addition to the website, Michigan Legal Help provides information and assistance to individuals through local [self-help centers](#) in a number of counties. The centers allow visitors to access computers, printers, internet, and legal information (but not [legal advice](#)).



### Ideas for the Classroom

- Find [courts and agencies](#) in your county.
- Look at [categories of legal problems](#) to see ways courts serve the public every day.
- Assign a legal problem to older students and have them walk through the [Guide to Legal Help](#) tool. (Not all legal problems listed have resources available.)
- Read about [mediation](#) and other alternatives to court.
- Watch [how-to videos](#) such as Going to Court, which emphasizes being prepared and explains court staff roles.
- Review the [Education](#) section, which includes resources about school discipline, special education, and additional K–12 student services.

## Mediation

There is an alternative to the adversary process of resolving disputes. Each year, over 10,000 Michigan citizens use mediation services through the [Community Dispute Resolution Program](#).

Mediation is a voluntary process in which the parties meet with a trained neutral mediator and together find a solution to their problem. The final agreement can be virtually anything the parties agree to so long as it is not at odds with the law.

Mediation is a “win/win” rather than a “win/lose” solution. It focuses on what the issues are, how they can be resolved, and what can be done to avoid similar problems in the future. In court, the focus is on the past and who is at fault for the current situation.

If a situation is resolved through mediation, it does not need to go any further. If mediation does not resolve the issue, the parties are free to pursue all legal remedies, such as suing in court. In a majority of disputes taken to mediation, parties reach an agreement that makes legal action unnecessary.

## Benefits of Mediation

### Mediation is flexible.

Mediation can be used to discuss creative and individualized solutions. In a mediation session, any issue the parties bring to the table (i.e., individual needs, interpersonal issues, etc.) can be discussed. The source of conflict can be identified and resolved. In court, only issues pertaining to legal matters are part of the discussion.

### Participants control the outcome.

In the mediation process, the people involved in the situation are the ones who create an agreement that works for them. In arbitration or in court, an agreement is imposed by an arbitrator or judge.

### Mediation is forward-

**looking.** It focuses on what the issues are now, how they can be resolved, and what can be done to avoid similar problems in the future. In court or in arbitration, the focus is on the past, i.e., who is at fault for the current situation.

### Mediation can preserve

**relationships.** Mediation can help to build a framework for interacting based upon mutual interests and needs.

**Mediation is creative.** The final agreement can be virtually anything the parties involved agree to so long as it is not at odds with the law.

**Mediation is confidential.** The parties can speak openly and directly to each other and to the issues, without the proceedings being public.

### School Conflict Management Services



Mediation is used in a variety of school situations. Below are examples and goals of such programs.

**Restorative practices** | Reducing suspensions and expulsions; improving the school climate; teaching conflict resolution skills to prevent future conflicts between students.

**Peer mediation** | Effectively managing minor conflicts between students.

**Truancy prevention; restorative conferencing** | Reducing truancy in situations not yet petitioned in court.

**Bullying prevention** | Reduce incidences of bullying behavior, prevent the development of new bullying behavior, and improve peer relations at school.

[Special Education Mediation Services](#) | Provides mediation and training for working through disagreements so children with disabilities promptly receive the services they need to develop and succeed in school.