Each state in the USA has its own rules of civil procedure and there is also a federal court system which means that there are 51 different court systems in the USA. There are attorneys who must determine which court has the power to decide the matter of the client = the court of relevant subject matter jurisdiction.

**CIVIL TRIAL PROCESS IN THE U.S. *(občianske súdne konanie)***

According to a civil trial process – 2 parties = 2 litigants

Claimant, plaintiff (US) vs. defendant

*(navrhovateľ, žalobca) (odporca, žalovaný)*

In family law

Petitioner vs. respondent

Relevant documents:

1. Claim *(žaloba)*

2. Complaint

3. Petition *(návrh)*

2 terms:

1. process = broader term which covers also a trial:

I. pre – trial

II. trial

III. post - trial

2. trial = a part of a process

**I. PRE – TRIAL**

2 types of claims (in civil justice system)

1. law claims – for the monetary damages

2. equity claims – the party which is bringing the suit is asking the court to direct other party to do something or not

1. filling suit – any person can walk to a court & lawsuit ⇒ to file a lawsuit

typically an initiate document = a complaint

2. serving the suit papers *(doručenie)* – a complaint has to be served appointed the defendant, the local sheriff or another person of law = responsible for serving – the form is personal

3. defendant´s response – 20-30 days in which has to response – 2 ways in which he can response:

a) motion *(podnet, žiadosť)*

1. motion to QUASH *(zastaviť, anulovať)*  if the defendant believes that the service of the relevant documents was not in line of law

2. motion to STRIKE – requires the court to strike *(vyčiarknúť)* certain part of the complaint, because is irrelevant

3. motion to be more define – requires the plaintiff to be more specific about the complaint

4. motion to DISMISS – means that the court lacks jurisdiction or the plaintiff has not presented legal sound basis for the action against the defendant *(odporca žiada súd, aby sa týmto návrhom vôbec nezaoberal, lebo navrhovateľ nepredložil právne solídny základ pre opatrenie voči odporcovi)*

b) answer – if no motion are fill than the defendant answer directly to the plaintiff

either he admits certain fact or denies *(odmietnúť)* – than it has be prove at the trial *(buď odporca potvrdí, že sa skutok stal tak a tak, alebo to odmietne a bude to následne predmetom dokazovania na pojednávaní)*

4. defence *(právo vyviniť sa) –* if the substantive law *(hmotné právo)* allows the implication of defence this must be applied at this point

defences = law of torts = 1. negligence, 2. trespass – to the person (assault, battery, false imprisonment, harassment) – to goods – to land, 3. Intentional torts – malicious prosecution, invasion of privacy, defamation, 4. Nuisance – private, public

5. the plaintiff provides a REPLY (response) – to the answer to the defendant

6. DISCOVERY *(sprístupnenie, odhalenie info)* – each party is entitled to the information which is in position of other party – they disclose the information so at the time of the trial each will be ful....

4 different forms:

a) Deposition – testimony of witnesses under liner in the oral form taken under an oath outside the court

b) Interrogatories – the same as a deposition, but in written form, it consists of written questions, must be answered under an oath

c) Presentation of documents

d) The examination by a physical – physical examination *(lekárske vyšetrenie)*

7. Pre-trial conference – is conducted by a mediator *(sprostredkovateľ)*, it allows the parties to meet up *(náhodne sa stretnúť)* in same inform... (see ADR) for setting & to discuss the settlement

- Is strictly confidential – in the case if settlement is impossible

**II. TRIAL *(hlavné pojednávanie)***

1. Creation of the jury

* Selection - random, summony officer, a voir dire (lawyers ask question of juror to determine if that person can serve as an impartial juror)
* Challenges – each lawyer may exercise a number of peremptory challenges
* Petit & grand jury

2. Opening statement *(uvádzacia reč)* – that the court will be allow the both parties to have opening statements – attorneys of both parties

3. The plaintiff will present his evidence in first (documents or witnesses)

* The defendant may apply so called the motion to direct verdict *(žalovaný navrhuje zamietnutie žaloby)*

4. The defendant who has the right to present of his evidence

5. Both parties – closing arguments *(záverečná reč)*

6. Jury instructions – because they are not legal profesional → jury deliberations

7. Jury announces verdict *(porota vyhlási verdikt)*

If the jury returns *(vynesie)* a verdict for the plaintiff, the court enters a judgement – the judge announces/declares the judgement for the plaintiff setting out the award of damages.

If the jury finds the defendant is not liable to the plaintiff, the court enters a judgement in favour of the defendant.

**III. POST – TRIAL**

Either party may make a motion for new trial requesting the judge to set aside *(odložiť)* the judgement or the verdict and order a new trial because of improper *(neplatný)* or unfair trial (due to some prejudicial errors) or because of newly discovered evidence.

And either party can appeal against the decision of trial court on the grounds that insufficient award was obtained or errors in the application of law occurred.

The appellate judges deciding only on the issues of law can affirm, overrule or reverse the decision of the trial court. Their judgment is accomplanied by an Opinion..