

Choosing the Proper Court

Choosing the court in which to file your legal controversy is one of the most important decisions you must make when the occasion arises. This article explores your options.

Once you decide to sue your adversary, the challenge of identifying the proper court in which to sue your adversary may come as an unwelcome challenge. Let's review your choices.

Small Claims Court. You can represent yourself in Small Claims Court. You cannot collect more than \$5,000 damages in any case filed in Small Claims Court. Your opponent may remove the case from this court; if that happens, any party may be represented by an attorney. If the case stays in Small Claims Court, neither party may be represented by an attorney.

Cases filed and contested in Small Claims Court tend to be resolved more quickly and with less cost, owing primarily to the fact that the amount in controversy is minimal.

State District Court. In most locales, the District Court is located in the same courthouse as the Small Claims Court. In Michigan, District Courts may hear cases involving up to \$25,000 in losses, for the complaint, any counter-complaint or other claim filed in the case. You may represent yourself or hire a lawyer to do so. District Courts are the exclusive venue for landlord-tenant cases. There are certain cases which cannot be filed or heard in District Court regardless of the amount in controversy; examples include most cases seeking an injunction and certain controversies involving real property.

District Court Judges ordinarily allow limited discovery if the parties request it. Cases filed in District Court are usually completed more quickly than cases filed in Circuit Court.

Circuit Court. Circuit Courts have the broadest powers of all trial courts in Michigan. Circuit Courts hear all state court disputes in which the amount in controversy exceeds \$25,000. If you file your case in Circuit Court, you will be allowed "unlimited" discovery for a set period of time. Cases filed and heard in Circuit Court tend to be more complex and hotly contested, and thus take more time to resolve than District Court cases.

When you file in Circuit Court, your case can be transferred to the Family Court Division if it involves divorce, custody, or other family law matters. Starting January 1, 2013, your case can be assigned to the "Business Courts" which will be established in any Circuit Court having more than three judges.

Probate Court. Probate Courts hear cases involving wills, administering estates and trusts, appointing guardians and conservators, and orders treatment for mentally ill and developmentally disabled persons.

Native American Tribal Courts. If your legal case relates to something that happened on a tribal reservation, you may have to file your complaint in the Native American tribal court with jurisdiction over that reservation.

Federal District Court. District Courts are the primary trial courts for the Federal Court system. Federal District Courts hear cases alleging disputes arising under federal statutes and cases in which the parties have complete diversity of citizenship, e.g., they all live in different states. In diversity cases, the amount in controversy must exceed \$75,000.

Arbitrations. Many contract and employment disputes are subject to contract clauses which require arbitration. The contract will govern where and with whom such proceedings are filed and conducted. Arbitrations are not filed with a court unless and until they are to be enforced, or the parties dispute an issue which is beyond the scope of the arbitration.

Location. You must also decide where the lawsuit must be filed. This is known in legal circles as venue and is a different issue than choosing the type of court or other facility in which to sue. Perhaps we will take up that topic in this forum another time. In the meantime, you should consult with us about the location and type of court in which to file your lawsuit or claim.

Caution: This article provides general information and is not intended to be legal advice. You should contact LAMBERT LAW, 407 6th St., Ste A, Rochester, MI 48307 (248) 642-7774 if you are seeking specific legal advice regarding the topics discussed above.

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