

Court Litigation:

Court litigation is most commonly referred to as a civil lawsuit [as opposed to criminal] or civil action brought in a court of law. The plaintiff, a party who claims to have incurred loss as a result of a defendant's actions, demands a legal remedy. The defendant is required to respond to the plaintiff's complaint. If the plaintiff is successful, judgment will be given in the plaintiff's favor, and a variety of court orders may be issued to enforce a right, award damages, or impose a temporary or permanent injunction to prevent an act or compel an act.

A **civil lawsuit** may involve issues between individuals, business entities, government, or non-profit organizations. The conduct of a lawsuit is called litigation. One who has a tendency to litigate rather than seek out alternate dispute resolution is often called litigious. Because court litigation has expanded beyond all reasonable means in North America, it has developed its own bad name. Accordingly, the following more extreme, but often true, definition is in order:

'Litigation often proceeds much like trench warfare; initial court papers define the parties' legal positions as trenches define battlefield positions. After the initial activity, lawyers sit back for several months or sometimes years and lob legal artillery at each other until they grow tired of the warfare and begin settlement negotiations. If settlement is unsuccessful (90+% of all lawsuits are settled without trial), the case goes to trial, and the trial may be followed by a lengthy appeal.'

Many jurisdictions have enacted, or are considering, **reforms** directed at shortening the time a case takes to get to trial and minimizing the expense traditionally associated with litigation. Among these reforms are:

- 'Fast track' rules that prohibit delays and require each phase of the case to be completed within a particular period of time.
- Limits on how much information can be obtained from the opposing party.
- Requirements that certain types of cases be subject to Arbitration outside of the courts.
- Requirements that attorneys inform their clients of alternative dispute resolution methods.
- Court-sponsored techniques such as mini-trials and early neutral evaluation that are designed to get the parties to settle by giving them a realistic assessment of what is likely to happen if the case goes to trial.

A simple **comparison of competing processes** follows:

	Cost	Time	Results	Client Control over Process	Relationship Satisfaction
Court Litigation	high	long	variable	poor	poor
Arbitration	average	average	average	fair	fair
Self-negotiation	average	average	average	good	variable
Mediation	low	short	good	good	good