

Insider

THE UTAH LOCAL GOVERNMENTS TRUST NEWSLETTER :: SUMMER 2015

The Basic Anatomy of a Civil Lawsuit, Part 3



Steven A. Hansen
CEO

III. The Pre-Trial Stage.

Once fact and expert discovery have been completed, only a few items remain before the case is ready for trial. In most cases this includes a hearing on dispositive motions, mediation, and a pretrial scheduling conference.

A. Dispositive Motions.

Dispositive motions, commonly referred to as motions for summary judgment, will typically be filed by the defendant who claims that, based on the undisputed facts, all or part of the plaintiff's case should be dismissed as a matter of law.

While a dispositive motion may be filed at any point in the litigation, they are normally reserved until fact and expert discovery has been completed. The party moving for summary judgment will file a motion specifying the relief sought (i.e., dismissal of all or part of the other

side's claim), along with an accompanying memorandum which sets forth the facts, legal authorities and arguments supporting its motion. The other side will then have a limited amount of time, typically between two and four weeks, to file an opposition memorandum explaining the factual and/or legal basis for why the motion should be denied. The moving party will then file a reply memorandum in support of its motion to address the issues and arguments raised in the opposition memorandum.

Once the motion is fully briefed, the court will schedule a hearing in which counsel for the parties will present oral argument in support of or in opposition to the dispositive motion. During the hearing the judge will often ask



questions concerning the facts, legal authorities and arguments contained in the parties' briefs. At the conclusion of the hearing, the judge may issue a ruling from the bench or, as is often the case, take the matter under advisement. If the matter is taken under advisement, the judge will usually issue a written ruling either granting or denying the motion. If the judge grants the motion and dismisses the plaintiff's claim in its entirety, a final order/judgment will be entered in favor of the defendant. The plaintiff will have 30 days to file a notice of appeal once the final order/judgment is signed by the judge. If the judge denies the motion or grants only part of the motion, the case will then proceed to the next phase.

B. Mediation.

While not mandated by law, judges will often require the parties in a lawsuit to attempt to resolve their case through mediation before they are given a trial date.

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QUICK AND EASY SALSA

- 1 small onion
- 30 oz can whole tomatoes, with juice
- 4 oz can green chilies
- 2 tsp sugar
- 1 tsp salt
- 1/4 tsp black pepper
- 1 tsp cumin
- 1 tsp chili powder
- 2 Tbsp apple cider vinegar
- 1 Tbsp Worcestershire sauce
- Hot sauce, to taste, or 2-3 shakes red Tabasco sauce

Pulse all ingredients together in food processor or blender to desired consistency. Serve with tortilla chips.



The Intangibles of Claim Evaluation

Chris Rozelle
Claims Manager

Putting a dollar value on a personal injury claim can be easy when the factors are objective and measurable. Medical expenses, the type of injury and treatment, the length of recovery, and the circumstances surrounding liability are all easy to quantify into a value range. Using these basic measures, claims can often be resolved before litigation begins. However, there is often more to the story that can sway the value significantly up or down.

Here are examples of some of the intangible factors that affect the value of a claim that are oftentimes not given enough consideration. In order to effectively know the true value of a claim, these intangibles must be taken into account early.

- Location, location, location. These are the three most important factors in real estate value, and the same could be said of lawsuits as well. The county (or division in federal court) can drastically affect the verdict estimate that you get from local counsel. Factors such as jury pool, judge, jury selection, frequency of jury trials, and length of docket are all factors for consideration.
- Witness credibility. All cases that go to trial involve factual disputes. Victory depends on which version of the disputed facts is most believable. Inevitably, this depends on which witness has the most credibility. Facts on paper and facts on the witness stand are often different things.
- Opposing counsel. You can learn a lot about a case by knowing the lawyer who decides to take it on. Courtroom experience, ability to fund litigation, and reputation all factor into your evaluation. In the end, the willingness and ability of the plaintiff's lawyer to try the case can affect the indemnity payment.

It is oftentimes said that claim resolution is more art than science. Depending on your point of view, you may agree. There are both hard and soft variables associated with the evaluation and resolution of claims, and we at the Trust feel as though we have the best team available to bring you the right resolution at the right time.



Are you clean? er, is your computer clean?

Brady Loveland
Member Services and IT Interim Manager

When was the last time you took a few minutes to clean your computer? Dust and grime can really do some damage to your computer if the fans and vents get clogged. This is something that anyone can do, and it only takes a few minutes. Here are a few small tips (check with your IT department for any other suggestions pertinent to your computer equipment).

Never spray any liquid into a computer - always spray on to a cloth, and then wipe away any grime, fingerprints, etc. from the screen, keyboard, and any other dirty surfaces (I recommend rubbing alcohol in small quantities on a microfibre cloth). DO NOT use a vacuum to clean out your computer. Vacuums create static electricity which can shock your computer, causing more damage than the dust that was there. Always use a can of compressed air, or an air compressor (turn the pressure down on the air compressor and give yourself extra room). When blowing air through fans, hold them still with your fingers, tooth picks etc. to keep them from spinning too fast. You'd be surprised at how many fans I've replaced from someone blowing them out with a compressor and the bearings are shot. Avoid eating and drinking around your computer. Spills can cause a lot of problems - many of which can't be repaired.

These few tricks take a few minutes and can keep your computer running well by reducing heat, and premature wear.



Accounts Payables Tech

Megan Van Gundy
Accounts Payables Technician

Hello, members of the Trust! My name is Megan Van Gundy and I work in the Accounting Department as the Accounts Payable Technician. My primary responsibility at the Trust is processing payments to our members and vendors in a timely and efficient manner, and to address any concerns that may arise. Another responsibility is paying vision checks. My goal is to maintain a positive relationship with all members and vendors.

Now for a little bit about me. I graduated from Stevens-Henager College with a Bachelor of Science Degree in Accounting in September 2012. While I was halfway through college, an opportunity to work in the field of accounting came my way, and I've been working in accounting ever since.

Before I came to the Trust in January of this year, I was employed at Metro Group, Inc., a company in the metal recycling industry. It was there I received my first real accounting experience by working in their Accounting Department. I had a range of duties including processing accounts payable, bank reconciliations, and other general ledger functions. I enjoyed my time there and am grateful for the experience I gained, as it opened up the opportunity to be here at the Trust.

Please do not hesitate to call me if you have any questions regarding a check received from the Trust, a vision check you may be waiting for, or if I can better serve you in any way. I look forward to working with all of you and getting to know you.



WHO'S GOT YOUR BACK?

Ryan D. Hatch
Membership Development Manager

As the leading risk pool in the state, the Utah Local Governments Trust invites close examination by administrators, finance professionals, elected officials, and others. Hundreds have analyzed our market stability, coverage forms, resources, and staff. This drives accountability, pushes us to deliver, and stakeholders share in the success. To better protect members, the Trust has focused on these key areas:

1 - Coverage

Since 2009, membership growth has averaged 15% – spreading the risk and enabling coverage enhancements. In 2010 the Trust launched our pooled property program, expanding coverage in several areas including crime, earthquake, flood, and increased limits. In 2016, the Trust will introduce other improvements included in our superior broad form liability policy.

2 - Reinsurance

The Trust is charged with protecting reserves and safeguarding against catastrophic loss. Doing so requires fiscal accountability and backing from highly rated reinsurance carriers. These partners contribute when claims surpass predetermined thresholds.

Primary Reinsurers and A.M. Best Ratings

Liability:	Munich Re (A+ XV)
Property:	Travelers (A++ XV)
Workers Comp:	Safety National (A+ XIII)

3 - Financial Position

The Trust's financial position is at its strongest point in decades, illustrated in our 2014 Annual Report (e-copy found at utahtrust.gov). This report details assets, liabilities, and net position, demonstrating continued solvency. The \$1,000,000 liability program dividend paid this year is a byproduct of our strong financial position.

The Trust is committed to members. You have a voice and we're listening. So, who's backing your organization? If it's not the Trust, have you fully explored your options?



Loss Prevention Consultant

Brent Oakeson
Loss Prevention Consultant

I joined the Trust in January, and I work in the Loss Prevention Department where I provide safety training, consultation, and risk assessments for Trust members. I have experience as a Safety Manager in various industries around the country. Some examples of projects I have worked on include the Terminal Expansion Project at the Orange County John Wayne Airport, the Port of Long Beach, Los Angeles Unified School District, Copper Mines throughout Arizona, Residential Homebuilding Projects, and Construction of Army Corps Barracks at Fort Bliss, Texas. My experience involves managing safety programs to prevent losses, conducting safety inspections, and providing consultation to project teams. I have seen success that comes from building safety cultures and applying best practices.

I have found the safety field to be both interesting and rewarding to me, in that I get to see new things everyday and help organizations and individual workers prevent incidents, risk, and liability. It has been my goal to help prevent injuries that may disrupt our personal lives and ensure compliance and profitability in organizations. I have seen the everyday challenges that companies face in keeping their workers safe and managing risk effectively, and I am glad to help Trust members in this regard.

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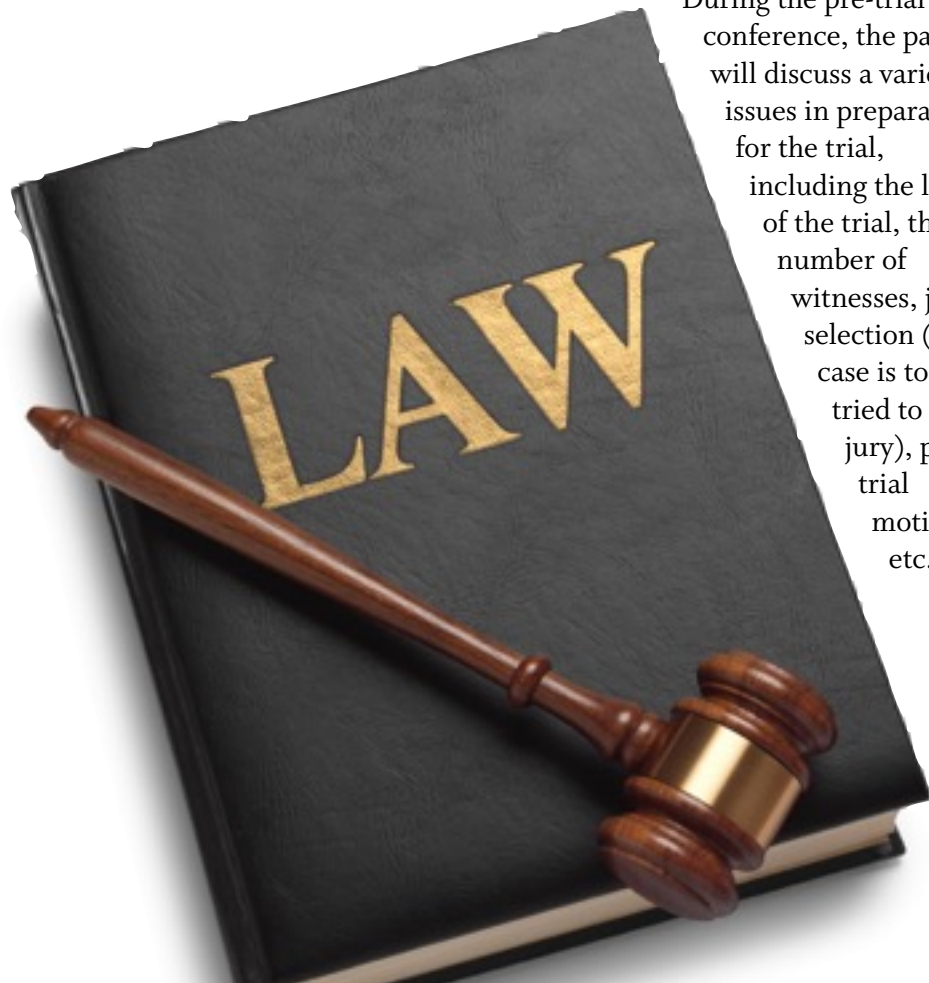
Mediation is a non-binding, confidential and informal alternative dispute resolution process in which a neutral mediator selected by the parties assists the two sides in reaching an amicable resolution. Like the filing of dispositive motions, mediation can take place at any stage of the litigation process; however, it is usually done after at least some discovery has taken place or after the court has denied a party's dispositive motion. The parties will often provide the mediator with a confidential brief in preparation for the mediation to outline the key facts and their respective positions.

On the day of the mediation, the mediator will usually meet with both sides in what is known as an "opening session" or "joint session." There, the mediator will talk to the parties about the benefits of mediation and the risks of going to trial and leaving the case in the hands of the judge or a jury. The parties will then split into separate conference rooms and the mediator will visit with each side privately. The mediator will discuss the strengths and weaknesses of the

case, and will then convey settlement offers and demands between the parties. If a settlement is reached, the parties will sign a memorandum of understanding before the mediation concludes. The memorandum will outline the key aspects of the settlement and will usually

specify that a more formal settlement document will be prepared. Once settled, the parties will submit a joint motion to the court asking that the case be dismissed.

C. The Pre-Trial Conference. If mediation is unsuccessful, the final step before trial is to have a pre-trial conference. During the pre-trial conference, the parties will discuss a variety of issues in preparation for the trial, including the length of the trial, the number of witnesses, jury selection (if the case is to be tried to a jury), pre-trial motions, etc.



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