

# Insider

THE UTAH LOCAL GOVERNMENTS TRUST NEWSLETTER :: SPRING 2015

## The Basic Anatomy of a Civil Lawsuit



**Steven A. Hansen**  
CEO

At a recent Trust Advisory Committee (TAC) meeting, we were discussing ways the Trust can better help members understand the claims process when it involves a civil law suit. Melinda Greenwood, City Administrator at Pleasant View City, suggested that the Trust create a document summarizing what a member can expect when a lawsuit is filed against their entity and/or filed against them personally. Further, it was suggested that the Trust be more proactive and review with the member the process of a civil lawsuit when a suit has been filed or is expected to be filed. Here is part 1 and 2 of a five part series. Watch for part 3, 4, and 5 (Pre-Trial, Trial and Appeal) in our next Insider. In addition to this article, I'm happy to meet your council, management team or others, to discuss the process, what to expect, and to answer questions.

### I. The Pleading Stage.

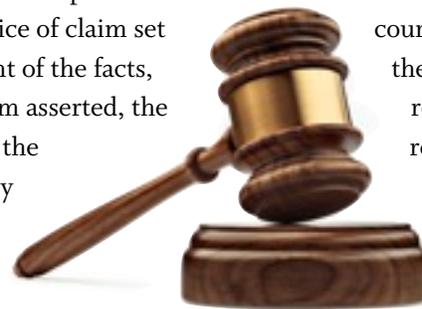
**A. The Complaint.** A civil lawsuit begins with the filing of what is known as a "complaint." The person or entity filing

the complaint is known as the "plaintiff." The person or entity against whom the complaint is filed is known as the "defendant." The complaint sets forth the allegations, which, if proved, would entitle the plaintiff to a judgment against the defendant. The complaint will often include factual and legal allegations, which may be disputed, in whole or in part, by the defendant.

In Utah, in order for a court to have jurisdiction over a civil lawsuit filed against a governmental entity, the plaintiff must file a written "notice of claim" with the entity before filing the complaint. It is required that the notice of claim set forth a brief statement of the facts, the nature of the claim asserted, the damages incurred by the claimant so far as they are known, and, if the claim is being pursued against a governmental employee individually, the name of the employee. A notice of claim against a governmental entity must be filed within one year after the claim arises. Once a notice of claim has been filed, the governmental entity or its insurance carrier must inform the

claimant in writing within 60 days whether the claim has been approved or denied. If, at the end of the 60-day period, the governmental entity or its insurance carrier has not approved or denied the claim, the claim will automatically be considered denied and the claimant may proceed to initiate a lawsuit against the governmental entity.

**B. The Answer.** Once the defendant has been served with a summons and copy of the complaint, the defendant will have a fixed number of days to file a response. This response can be in the form of an "answer" or a motion asking the court to dismiss the complaint. If the defendant fails to file a timely response, the plaintiff may request that the court enter a default. If the default is not set aside, the plaintiff may request that a default judgment be entered against the defendant.



If the defendant's response is in the form of an answer, the defendant will respond to the specific allegations set forth in the plaintiff's complaint and will assert any additional allegations which would establish an affirmative defense to the

## HOT GERMAN POTATO SALAD

- 5-6 medium red potatoes
- 1/2 lb bacon, finely diced
- 1 sm onion, chopped
- 1/3 C white vinegar
- 1/4 C water
- 1/2 tsp salt
- 1/4 tsp pepper
- 1 Tbsp dried parsley

Peel potatoes and cut into bite-sized pieces. Boil in salted water until tender. Set aside and keep warm. Meanwhile, fry bacon and onion together until onion is tender. Drain off most of the bacon fat. Keep warm. Combine vinegar, water, salt, pepper, and parsley in a bowl. Pour over warm potatoes. Add warm bacon and onion. Stir gently to combine. Adjust seasonings. Serve immediately.



## Providing Quality Legal Defense



**Chris Rozelle**  
Claims Manager

Managing costs associated with the defense and indemnity of lawsuits is an ever-challenging topic. The Trust maintains a pool of quality attorneys at the ready in the unfortunate instance you have been sued. Our members have had some great experiences with our pool of attorneys, but we're always looking to improve the service. In that pursuit, here are some of the things that we consider when selecting counsel and evaluating opposing attorneys.

**Firm Size.** Does the size of the firm impact their operational and resolution recommendations?

**Breadth of Practice.** The more general the practice, the less experience plaintiff's counsel may have in the type of claim you are handling.

**Depth of Analysis.** Poorly written and ineffective pleadings and opinions tend to contain more conclusory statements about damages and the law.

**Years in Practice.** There is no substitute for experience.

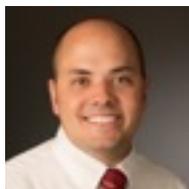
**Artfulness of Complaint and Initial Discovery.** A good lawyer knows the quickest and most effective means to resolve matters for their client.

**Depositions.** A lawyer with a good grasp of the claim knows what is needed out of a deposition. In most cases, effective depositions are shorter than ineffective ones.

**Prior Experience with Opposing Counsel.** One of the most significant advantages a defense attorney can bring to your claim is experience with opposing counsel.

**Negotiation Style.** An effective attorney will have a good analysis and assessment of liability and damages

## Shortcuts to Productivity



**Brady Loveland**  
Member Services & IT Interim Manager

Did you know that there are lots of amazing keyboard shortcuts? Check out this cool chart of Mac and PC shortcuts for many common keyboard shortcuts that can

Description	PC (Windows)	Mac
Copy	Control-C	Command-C
Paste	Control-V	Command-V
Cut	Control-X	Command-X
Print	Control-P	Command-P
Screenshot	Print Screen	Shift-Command-3
Screenshot with precision	NA	Shift-Command-4
Select All	Control-A	Command-A
Spotlight/Windows Search	Windows Button, Begin Typing	Command-Spacbar
Toggle between Running Applications	Alt-Tab	Command-Tab
Toggle between multiple open windows	NA	Command-`
Increase Size of Zoom	Control-Plus (+)	Command-Plus (+)
Decrease Size of Zoom	Control-Minus (-)	Command-Minus (-)

**Accounts  
Receivables  
Tech**



**Nathan Wolfe**  
Accounts

Receivables Technician

Hello, Utah Local Government Trust Members! I would like to take a moment to introduce myself as one of the newest members of the Trust staff. My name is Nathan Wolfe. I am the Accounting Accounts Receivables Technician. I am originally from Glendora, California and was recently married in January 2014. I went to school at Dixie State in St. George Utah, where I graduated with an Associates Degree in Business and Bachelor's Degree in Accounting. I did tutoring for the school in Accounting and worked part time with Loss Prevention. I was certified and performed taxes for the community with the VITA program for three years. My first accounting job was an Office Manager Accountant for a manufacturer, where I did payroll in-house along with accounts receivables and accounts payables. I then worked for a medical billing company, where I would perform payroll and accounts payables for the clients. I enjoy going to live concerts of all sorts of music genres. I consider myself a movie buff and enjoy new ones as well as classics. I welcome every opportunity I have to spend with family and enjoy my time the most when I am around those I love.

As a reminder to better serve you, please include as much information as possible with your checks. The more information you send with the check the better I can accurately apply it. I thank you for your patience as I learn how things work. I am really excited to be working at the Trust and enjoy it. Please do not hesitate to call if you have any questions or if I can better serve you. I look forward to our future together here at the Trust. Everything we do is to benefit and help you.

**Your Pool -  
Your  
Scorecard**



**Ryan D. Hatch**  
Membership  
Development

Manager

359 public agencies comprise the Trust's Workers Compensation Program. These members come together in an effort to pool their risk and reduce employee injuries. When bringing in new members, the Trust's Membership Development Department seeks out entities with exceptional loss performance. This helps all participating members benefit from lower rates.

However, individual loss performance is also calculated when underwriting renewal premiums. For instance, members hold their own scorecard indicated by an experience modification factor (E-Mod). In simple terms, an E-Mod contrasts actual losses (over the recent three-year period) with expected losses. If your entity's actual losses exceed expected losses, your E-Mod rating goes up. This rating helps gauge the past cost of injuries and the future cost of risk.

While our team pursues top performing agencies to qualify and join the Trust's Workers Compensation Program, we can't ignore existing scorecards held by our membership. For example, the highest E-Mod in the pool is currently 2.35. The lowest is 0.55. What do these scores mean exactly? The chart below equates E-Mod ratings with a letter grade. This may help members and prospective members visualize and better understand their E-Mod.

0.50 – 0.70	=	A
0.80 – 1.0*	=	B
1.1 – 1.3	=	C
1.4 – 1.6	=	D
1.7+	=	F

\*1.0 is the industry average

Currently, 77% of Trust-insured Workers

**Sample Policies  
TAP Award**



**Doug Folsom**  
Loss Prevention  
Consultant

You may have recently received an email from your ULGT loss prevention consultant containing a sample policy with regard to "Return to Work," and another addressing your driver qualification program. These are intended to assist members who have not yet adopted policies on these topics in conjunction with the annual Trust Accountability Program (TAP) Award. These documents have already been customized for the recipients. Those who have received the TAP Award should have already completed these requirements.

On the Return to Work (RTW) policy, we have filled in the name that we believe will be your workers comp coordinator (WCC). We have also made our best guess for a clinic near you that can be designated as your directed care provider for work-related employee injuries. Specifics in this document should be reviewed to make sure the correct individual has been identified as your WCC. You should also review the named medical clinic to ensure that it is a logical choice. The document is in Word format and can be modified by you if this information is not correct. The Driver Qualification Program being sent out has also been customized. Please review this document to ensure all specifics are correct for your entity.

Both of these documents are provided as samples. They can be adopted "as is," or they may be edited as needed. If you have any questions about either of these policies, or if you have questions about the TAP Award in general, please contact our Loss Control Department.

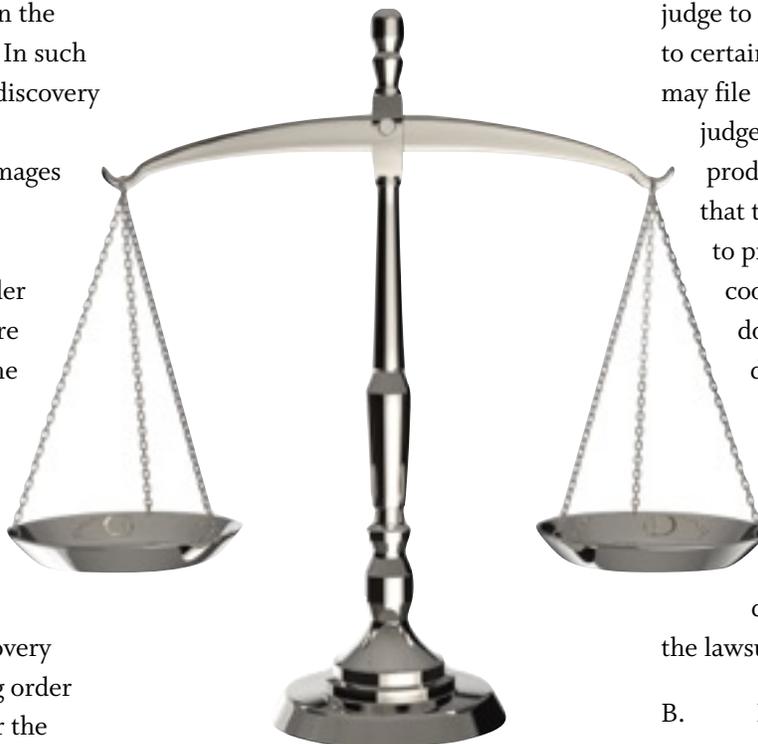
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# The Basic Anatomy of a Civil Lawsuit

## II. The Discovery Stage.

In Utah, with limited exception, parties to a civil lawsuit have the right to obtain evidence from the other side or third parties through what is known as discovery. If the case has been filed in state court, a discovery schedule will automatically be set in place upon the filing of the defendant's answer. In such cases, the scope and methods of discovery available to the parties will be determined by the amount of damages the plaintiff has specified in the complaint. For example, if the plaintiff has alleged damages under \$50,000, discovery would be more limited than in a case in which the plaintiff is seeking damages exceeding \$300,000. In federal court, once the defendant has filed its answer, the judge will typically hold a scheduling conference in which the parties will discuss their respective discovery needs and will enter a scheduling order which sets forth the deadlines for the parties to complete their discovery tasks. While efforts have been made to streamline the process, discovery is typically the longest part of a lawsuit, ranging anywhere from a few months in small cases to years in large, complex cases.

A. Fact Discovery. Discovery may consist of written discovery, including written questions known as interrogatories, requests for copies of documents known as requests for production, or requests that a party admit or deny certain statements known as requests for admission. It may



also include depositions in which a party or its representative is asked oral questions after being placed under oath by a court reporter. In most cases, parties will conduct written discovery before depositions. Typically, parties will have about 30 days to respond to written

discovery. However, it is customary for counsel representing the parties to grant the other side additional time if requested.

During discovery, the parties may disagree on the relevance or reasonableness of the other side's discovery requests. The parties may file motions with the court asking the judge to protect it from having to respond to certain requests. Conversely, a party may file motions with the court asking the judge to compel the other side to produce information or documents that the other side has failed or refused to produce. If a party refuses to cooperate in the discovery process or does not provide information and documents that the judge finds were unjustifiably withheld, the court may enter sanctions against that party ranging from the exclusion of evidence, to an award of attorney fees, to default judgment or dismissal of the lawsuit.

B. Expert Discovery. In many cases, expert witnesses are retained by the parties to support a claim or defense asserted in the lawsuit. If the case involves issues that are beyond a lay person's understanding, expert witness testimony may even be required. Expert witnesses may provide reports or a deposition, or both, in which the expert outlines his/her opinions,

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