



Beyond the Headlines

Understanding mass tort litigation in the U.S.

The U.S. legal system has a unique set of features designed to protect its citizens. When someone believes they've been wronged, they can pursue justice by filing a lawsuit. When multiple people sue the same defendant for similar reasons, that is called **mass tort litigation**. A mass tort is a civil action, not a criminal action, that is heard and decided by a jury of ordinary citizens in state or federal court.

Unlike many other countries, plaintiffs in the U.S. can file lawsuits at little or no cost, and they face no risk of losing money if they are not successful. As a result, the U.S. has more lawsuits than any country in the world, driving a \$400 billion industry.

WHO IS INVOLVED IN MASS TORT LITIGATION?

PLAINTIFF:

Individual who believes they have been wronged and files a lawsuit.

PLAINTIFF'S LAWYER:

Legal representation for the plaintiff.

DEFENDANT:

Individual or organization accused of wrongdoing.

DEFENSE LAWYER:

Legal representation for defendant.

WITNESSES

Both sides can call witnesses, who are often experts in their field, to help make their case.

JURORS:

Citizens chosen to hear the case. Together they are called the **jury**.

JUDGE:

Oversees the case, rules on what type of evidence or which witnesses can be heard.



a guide to

Steps Involved in Civil Suits

before the trial

PLAINTIFFS COME FORWARD



Lawyers who focus on mass tort litigation typically use mass advertising to recruit plaintiffs, and sometimes spend heavily to do so.

LAWSUIT IS FILED



Plaintiffs and their lawyers usually can choose where to file suit, called the venue. Where possible, they typically look for venues that may be more favorable to their case.

JUDGE DECIDES IF CASE CAN PROCEED



Judges evaluate the claims of the plaintiff to determine if there are sufficient legal and factual grounds for continuing with the lawsuit. Some cases are dismissed as a result.

DISCOVERY MOTIONS



Both sides are provided with access to all relevant, non-privileged potential evidence. That may include files, studies, records, data and communications such as emails.

PRE-TRIAL HEARINGS



For cases that proceed to trial, the judge applies the rules of evidence to determine what can be presented and who can appear as witnesses.

JURY SELECTION



Most cases are decided by juries of ordinary citizens, not professional judges. Jury members are randomly selected from the general public and then screened for conflicts of interest. They are not required to have advanced knowledge of the subject matter.

during the trial

BOTH SIDES ARGUE CASE, CALL WITNESSES



The legal standard for evaluating evidence in mass tort litigation is known as the “more likely than not” standard. Jurors do not need to be certain of wrongdoing. They need to believe something is more likely to be true than not true to find in favor of the plaintiff.

JURY CONSIDERS EVIDENCE



conclusion of trial

THERE ARE TWO POSSIBLE OUTCOMES

A

A **defense win** means the jury finds the defendant is not responsible for the alleged injuries and has no legal liability.

B

A **plaintiff win** means the jury finds wrongdoing by the defendant and decides damages. Three types of damages could be awarded by the jury:

- Compensatory damages cover things such as lost wages and medical costs.
- General damages cover emotional distress, pain and suffering.
- Where permitted, punitive damages punish reckless behavior on the part of the defendant, if it applies.

after the trial

EITHER SIDE CAN APPEAL IF THEY ARE THE LOSING PARTY

A trial loss does not necessarily translate into mass liability.



A panel of judges handles this phase, rather than a jury.

The **issues in question** during the appeal are questions of law—whether evidence should have been admitted, whether it is sufficient to support the verdict.

Appellate judges can overturn or vacate a verdict, order a new trial, reduce or eliminate damages, or uphold the original decision. If upheld, the losing party can take their appeal to a higher court.

This phase can often take years to conclude.

SETTLEMENT

At any point during the process, both sides can agree to a settlement. The settlement may or may not include admission of fault or payment, but it offers a way to conclude the case without a long trial.