

October 3, 2016: Anatomy of a Civil Lawsuit

Now that the Bill 326-33 has become Public Law 33-187, past victims of child sexual abuse can file a civil lawsuit against the alleged abuser and any other person, entity, or institution that aided in abuse. What can we expect to happen now? Let me walk you through the process for a civil lawsuit.

The recipe for pursuing a civil lawsuit at the Guam Superior Court can be found in the written Rules of Civil Procedure and the Local Rules of the Superior Court of Guam, available online at the Guam Supreme Court's website. The procedures must be closely followed. Failure by either party to follow the rules can result in sanctions ranging from a verbal reprimand to a fine, or even the dismissal of the lawsuit.

A civil lawsuit officially begins when someone files a formal document, called a Complaint, with the court. The Complaint names the person bringing the lawsuit, the plaintiff, and the person who is being sued, the defendant. Depending on the type of lawsuit, the plaintiff and defendant may be an individual or an institution. In the Complaint, the plaintiff lays out the basic facts of the case and suggests an appropriate remedy.

Next, the Complaint, along with a document called a Summons, must be served on the defendant. The Summons informs the defendant when a response to the Complaint, called an Answer, is due. Normally, the defendant has twenty days to file the Answer with the court. In the Answer, the defendant either admits or denies each allegation in the Complaint. If the defendant wants to countersue the plaintiff, the Answer will also include a Counterclaim. The plaintiff will then have to file a Reply to the Counterclaim.

Now that the parties have a general idea of what each is alleging, the formal process of Discovery begins. Discovery can include several options and each is geared toward preparing for trial. The use of Interrogatories is one option. These are written questions that must be answered by the other party in writing and under oath.

Another type of Discovery is a Request for Production (RFP). In an RFP, one party asks the other for copies of certain documents, or access to evidence in the possession of the other party, such as documents, photos, and videos. This can also include authorization to inspect a location, such as an office or home.

Discovery can include a Request for Admission where a party is asked to either admit or deny in writing certain facts, or to admit the authenticity of certain documents.

There is also a form of oral Discovery called a Deposition. This is when a party, or a potential witness, is required to appear at a certain location, often an

attorney's office, to answer questions under oath. A court reporter is present during the questioning and prepares a written transcript of the entire proceeding.

Once Discovery is completed, the matter is set for a trial. Frequently, as a direct result of the Discovery process, the parties are able to reach a settlement without a trial. If not, the judge makes the final decision after the trial is concluded.

If the thousands of lawsuits filed across the nation for child sex abuse are any indication, the entire process may take anywhere from one to five years. Get ready for a long, bumpy, legal road.