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The Texas Civil Litigation Process
DLG Luce LLP

In our current rough economic climate, more businesses and people are being faced with civil lawsuits. When faced with a lawsuit, there are a number of important decisions that the person or business becomes faced with, and a failure to understand the Texas litigation process and proceed correctly could prove to be costly.

Generally speaking, a defendant in a civil lawsuit in Texas is not required to take any action, until when, and if, the defendant is properly served with citation. Specifically, this business has not been served with the proper legal papers giving proper notification of the lawsuit, the defendant person or business may not have an obligation to respond. However, once the defendant is properly served with citation (notice of the lawsuit) then the defendant becomes faced with many responsibilities, the first of which is to properly answer the lawsuit.

Before attempting to answer a lawsuit, it is always advisable to consult with an attorney experienced in litigation. It is important to contact a lawyer as soon as possible because depending on when the defendant is served, there is a very stringent deadline for answering a lawsuit. Failure to timely answer a lawsuit can result in Plaintiff's counsel seeking a default judgment for failure to answer against the defendant.

If you or your business have been sued in a business or real estate related matter (or any matter) once you have consulted with or hired an attorney, the next important step is to make sure that the claims in question are not covered by an insurance policy. If they are, then it is very important that you notify your insurance company immediately to put them on notice of the claim and the lawsuit.

Sometimes a business or individual might attempt to file its own answer to a lawsuit before hiring or consulting with an attorney. Generally, doing so is not advisable because of the risk of failing to properly raise important issues in the answer. Doing so can result in a waiver, which could damage defendant's case significantly.

Once an answer has been filed in a lawsuit, generally the next phase in the Texas litigation process is the discovery period. During discovery, the parties are entitled to seek relevant information from the opposing party (or parties), including information about evidence in the case, plaintiff's claims and witnesses. The main tools utilized to properly conduct discovery are requests for admission, production, interrogatories, inspection and depositions.

After the parties have had a sufficient opportunity to conduct discovery, they may be able to move for summary judgment in the case. Basically, this is a request to the court that all or part of the litigation be dismissed as a matter of law on either the parties claims or defenses.

While not officially part of the litigation process, often times parties in litigation will agree to mediation in an attempt to resolve the dispute. Mediation is when the parties agree to meet before a disinterested third party (mediator) in an attempt to effectuate a compromise and agreeable resolution in the case.

The aforementioned is a very basic 'nuts and bolts' outline of the litigation process in Texas, and is in no way intended as a substitute for competent legal advice. Should your business or you be faced with litigation, it is always advisable to consult with an attorney as soon as possible.

** This article does not constitute legal advice. It is written for general information purposes.*

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