Civil Litigation:

There are generally three phases to all civil litigation: the pleading phase, the discovery phase, and the adjudication phase. The pleading phase consists of the parties filing documents with the Court setting forth their positions on the case - the Complaint (which charges the other party with liability and demands damages), and the Answer (which often denies liability and accuses others of being at fault). The discovery phase is the time when the attorneys attempt to find out what happened and to understand the other party's position. The adjudication phase is the resolution process of the case, either by settlement, motion, arbitration, or trial.

The discovery phase is the time when the attorneys attempt to find out what happened and to understand the other party's position. Although discovery is meant to be used as a tool, the opposing party and its attorneys often abuse the process and use it as an expensive, time consuming bludgeon.

It is a common practice for each side to serve the other party with one or more sets of written discovery, including Interrogatories, Requests for Admission, and Requests for Production of Documents. Interrogatories are either form questions or specific written questions submitted to gain more detailed information. Requests for Admission are statements of fact which the other party wants you to admit in their favor, however you can deny those statements of fact if you believe or know them to be untrue. Requests for Production of Documents are used to obtain copies of important papers such as medical records and bills. We will provide you with assistance in these procedures. Other discovery tools include Depositions and Subpoenas to third parties (for documents or for their deposition testimony).

Generally, before there is any trial or significant court hearing on the case, the attorney for the other side will examine you under oath. This is known as a "Deposition." A Deposition is a question and answer procedure that becomes a permanent record of your sworn testimony in printed form. The testimony may be used for or against you if the matter goes to Court. Before your Deposition, we will meet with you to review in detail the circumstances surrounding the incident. In the event that your deposition is noticed we will provide you with suggestions and advice on your demeanor and response to questions or cross-examination. We provide our clients with a fundamental understanding of the tactics attorneys use to elicit information at Depositions. Additional Depositions may be taken of parties, witnesses, experts, and others in possession of information or knowledge concerning the incident.

The adjudication phase is the resolution process of the case, either by settlement, motion, arbitration, or trial. Often adjudication is protracted and/or disjointed taking place in segments over many months. Because so may cases are awaiting trial, the Courts are very congested and therefore, this case, if need be, may not go to Court for a year or two. In order to relieve some of the congestion of the Court's calendar, and to reduce the amount of trial time, hearings are often held in the judge's chambers or in open Court to resolve certain issues before the actual trial date. At these hearings or conferences, the attorneys may offer evidence or

testimony of witnesses that have been examined under oath. These pretrial proceedings often show that the lawsuit is without merit or that there is some liability for the damages. Many cases settle out of Court without an actual trial.

Of course, most litigation is usually resolved prior to trial. Settlement is preferable because then all sides have some say in how the case is resolved. Statistically over 98% of all law suits are resolved without trial. However, this usually occurs after all sides have engaged in extensive discovery and have spent time and attorney's fees wearing each other down. Parties should be aware that litigation is used by some unscrupulous adversaries to wear you down by engaging in "scoarched earth" tactics designed to increase litigation costs and attorney's fees. The stakes in civil litigation can be quite high, and parties are sometimes likened to high stakes gamblers. Our goal at the Law Offices of **David P. Berschauer, APC,** is to assist our clients in achieving the best result for them at the lowest cost: in terms of money expended, emotional frustration, and time delay.