

**County Employees Retirement System Board of Trustees  
Kentucky Retirement Systems Board of Trustees  
Special Called Board Meeting – Trustee Education Session  
September 7, 2023, 10:00 a.m. ET  
Live Video Conference/Facebook Live**

**AGENDA**

- |  |                                 |
|--|---------------------------------|
| <b>1. Call to Order – CERS Board of Trustees</b> | <b>Betty Pendergrass</b>        |
| <b>2. Call to Order – KRS Board of Trustee</b>   | <b>Lynn Hampton</b>             |
| <b>3. Legal Public Statement</b>                 | <b>Office of Legal Services</b> |
| <b>4. Roll Call/Public Comment</b>               | <b>Sherry Rankin</b>            |
| <b>5. Anatomy of a Lawsuit</b>                   | <b>Michael Board</b>            |
| <b>6. Adjourn – CERS Board of Trustees*</b>      | <b>Betty Pendergrass</b>        |
| <b>7. Adjourn – KRS Board of Trustees*</b>       | <b>Lynn Hampton</b>             |

*\*Board action may be required*



# Anatomy of Civil Lawsuit

Presented By: Michael Board, 9/7/23



## Basic Overview



Pleadings

Discovery

Resolution

Appeal

## A Simple Pleading Process

Complaint  
*Plaintiff*



Answer  
*Defendant*

Pleadings

Discovery

Resolution

Appeal

## Complaint and Answer

Complaint  
*Plaintiff*

- Begins the civil action in circuit court
- States the plaintiff's claim & demand for relief
- Some states call this a Petition

Answer  
*Defendant*

- Defendant addresses merits of case, sets defenses, & states counterclaim (if applicable)
- Must be filed within 20 days (usually)

COMMONWEALTH OF ENCHANTED KINGDOM  
FOREST COUNTY CIRCUIT COURT  
DIVISION  
CIVIL ACTION NO. \_\_\_\_\_

JANE GOLDSLOCKS PLAINTIFF

vs.

JOHN BEAR DEFENDANT

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**COMPLAINT**

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Comes now the Plaintiff, Jane Goldilocks, by and through counsel, for her Complaint against Defendant John Bear, states as follows:

**PARTIES**

1. The Plaintiff, Jane Goldilocks (Goldilocks) resides and owns real estate property at 101 Main Street, Fairy Township in Forest County.
2. The Defendant, John Bear (Bear) is a resident and owns real estate property at 525 Cave Lane, Fairy Township in Forest County.

**JURISDICTION AND VENUE**

3. Jurisdiction is vested in this Court as the amount in controversy exceeds the sum of \$5,000.00 exclusive of costs.
4. Venue is proper in this Court because the events in this matter occurred in Forest County.

**FACTS**

5. On June 1, 2020, Plaintiff suffered catastrophic and permanent burns to her mouth when she sampled porridge provided by the Defendant.
6. As a direct result of the burns to her mouth, the Plaintiff has incurred and will continue to incur medical bills.

**CLAIM 1**

**PLAINTIFF'S INJURIES ARE A DIRECT RESULT OF DEFENDANT'S NEGLIGENCE**

7. All above paragraphs are incorporated herein.
8. The Defendant was negligent in that the Defendant knew, or in the exercise of ordinary and reasonable case should have known, the temperature of the porridge was dangerous for consumption and failed to eliminate the risk of injury prior and/or warn of the dangers prior to the Plaintiff's consumption of the porridge.

**CLAIM 2**

**DEFENDANT'S NEGLIGENCE CAUSED PERMANENT & DEBILITATING INJURY**

9. All above paragraphs are incorporated herein.
10. The Plaintiff suffered permanent and debilitating injury to her mouth. The injuries have resulted in severe impairment to the Plaintiff's physical well-being and is expected to last the Plaintiff's lifetime.

**CLAIM 3**

**DEFENDANT'S NEGLIGENCE CAUSED EMOTIONAL DISTRESS**

11. All above paragraphs are incorporated herein.
12. The Plaintiff suffered severe emotional distress resulting in mental anguish, financial harm, emotional and physical illness, and trauma.

**CLAIMS FOR RELIEF**

1. For a trial by jury on all issues so triable.
2. That Plaintiff be awarded compensatory damages in an amount according to proof at trial.
3. That Plaintiff be awarded punitive damages in an amount according to proof at trial.
4. For Plaintiff's costs herein incurred, including reasonable attorney fees.

COMMONWEALTH OF ENCHANTED KINGDOM  
FOREST COUNTY CIRCUIT COURT  
DIVISION II  
CIVIL ACTION NO. 23-CI-001234

JANE GOLDBLOCKS

PLAINTIFF

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DEFENDANT

---

**ANSWER**

---

1. Comes now the Defendant, John Bear, by and through counsel, for his Answer to the Complaint of the Plaintiff states as follows:

**FIRST DEFENSE**

2. The Petition should be dismissed for the failure to state a claim upon which relief can be granted.

**SECOND DEFENSE**

3. The Plaintiff's claim for injury and damages are barred in whole due to her own negligence.

**RESPONSE TO ALLEGATIONS**

4. Defendant admits to paragraph number 1 of Plaintiff's Complaint.  
5. Defendant admits to paragraph number 2 of Plaintiff's Complaint.  
6. Defendant admits to paragraph number 3 of Plaintiff's Complaint.  
7. Defendant admits to paragraph number 4 of Plaintiff's Complaint.  
8. Defendant admits so much of the allegations contained in paragraph number 4 of Plaintiff's Complaint which state the Plaintiff suffered burns and sampled porridge, however, Defendant denies each allegation contained therein.  
9. Defendant denies allegations contained in paragraph number 8 of Plaintiff's Complaint.  
10. Defendant denies allegations contained in paragraph number 10 of Plaintiff's Complaint.  
11. Defendant denies allegations contained in paragraph number 12 of Plaintiff's Complaint.

**COUNTERCLAIM**

1. The cause of Plaintiff's injuries are a direct and proximate result of her negligence.  
2. The Defendant exercised ordinary care by surrounding his property lines with fencing and placing visible and prominent no trespassing signs.  
3. The Plaintiff has never been invited by the Defendant to any portion of the Defendant's real estate property including the residential dwelling and contents within.  
4. The Plaintiff trespassed upon the Defendant's property on June 1, 2020.  
5. As a direct and proximate result of Plaintiff's trespass, the Plaintiff damaged the Defendant's fencing and window unit of the residential dwelling.  
6. As a direct and proximate result of Plaintiff's trespass, the Defendant has suffered financial loss.

**CLAIMS FOR RELIEF**

1. Defendant demands that Plaintiff's complaint be dismissed and demands judgment against the plaintiff for damages for the following:  
2. For a trial by jury on all issues so triable.  
3. Damages for property damage.  
4. Recovery of his costs herein expended, including reasonable attorney fees.  
5. Trial by jury.  
6. Any and all further relief to which he may be entitled.

Pleadings

Discovery

Resolution

Appeal

## Motion to Dismiss

Motion to  
Dismiss  
*Defendant*

Response  
to Motion  
*Plaintiff*

Evaluation  
of Motion  
*Trial Court*

Decision on  
Motion  
*Trial Court*

**Defendant may ask court to dismiss some or all the Plaintiff's claims.** Pauses filing of Answer.

**Plaintiff may file a response**

**Court evaluates motion & response.** May grant oral argument.

**Court provides ruling.** Can take a while for ruling to be issued.  
**Motion Denied:** Defendant may appeal to Court of Appeals or file an Answer with trial court.  
**Motion Granted:** Plaintiff may appeal to Court of Appeals.



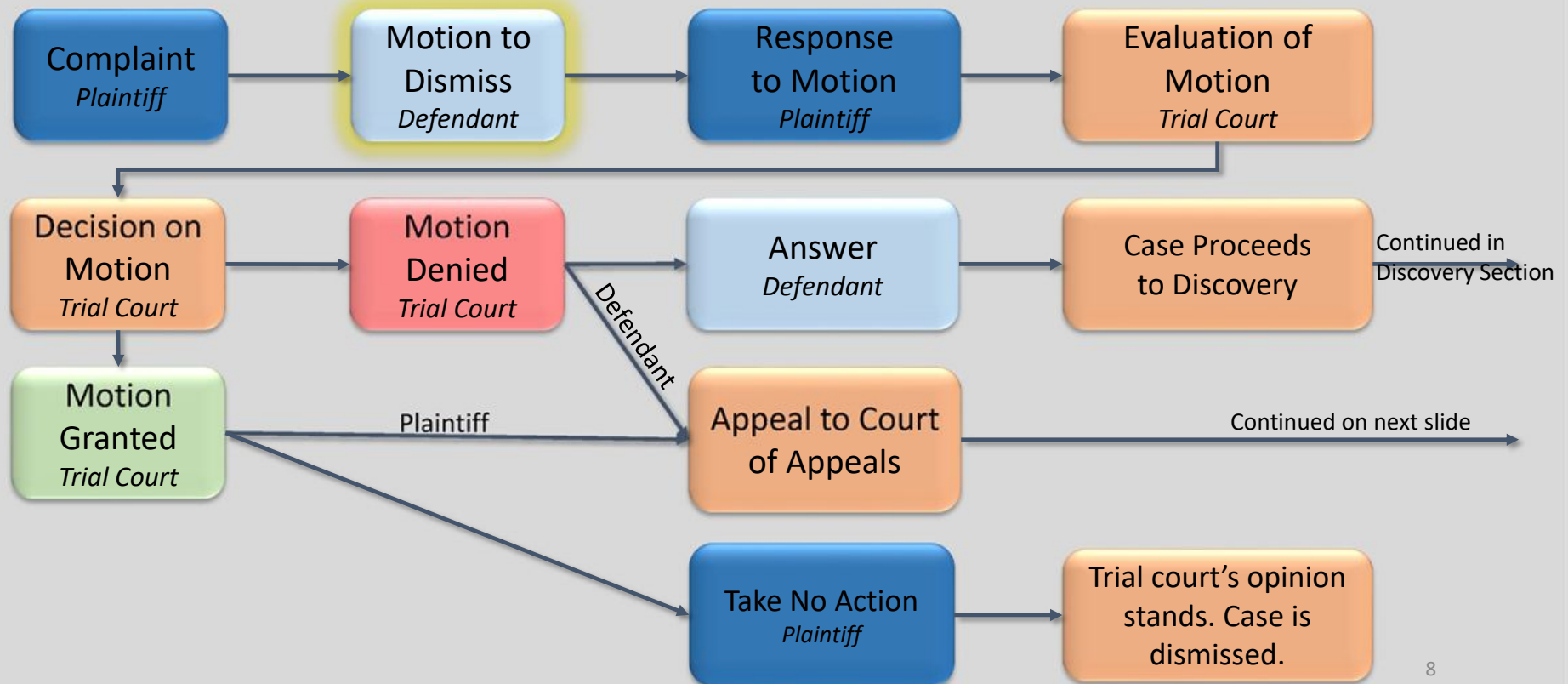
Pleadings

Discovery

Resolution

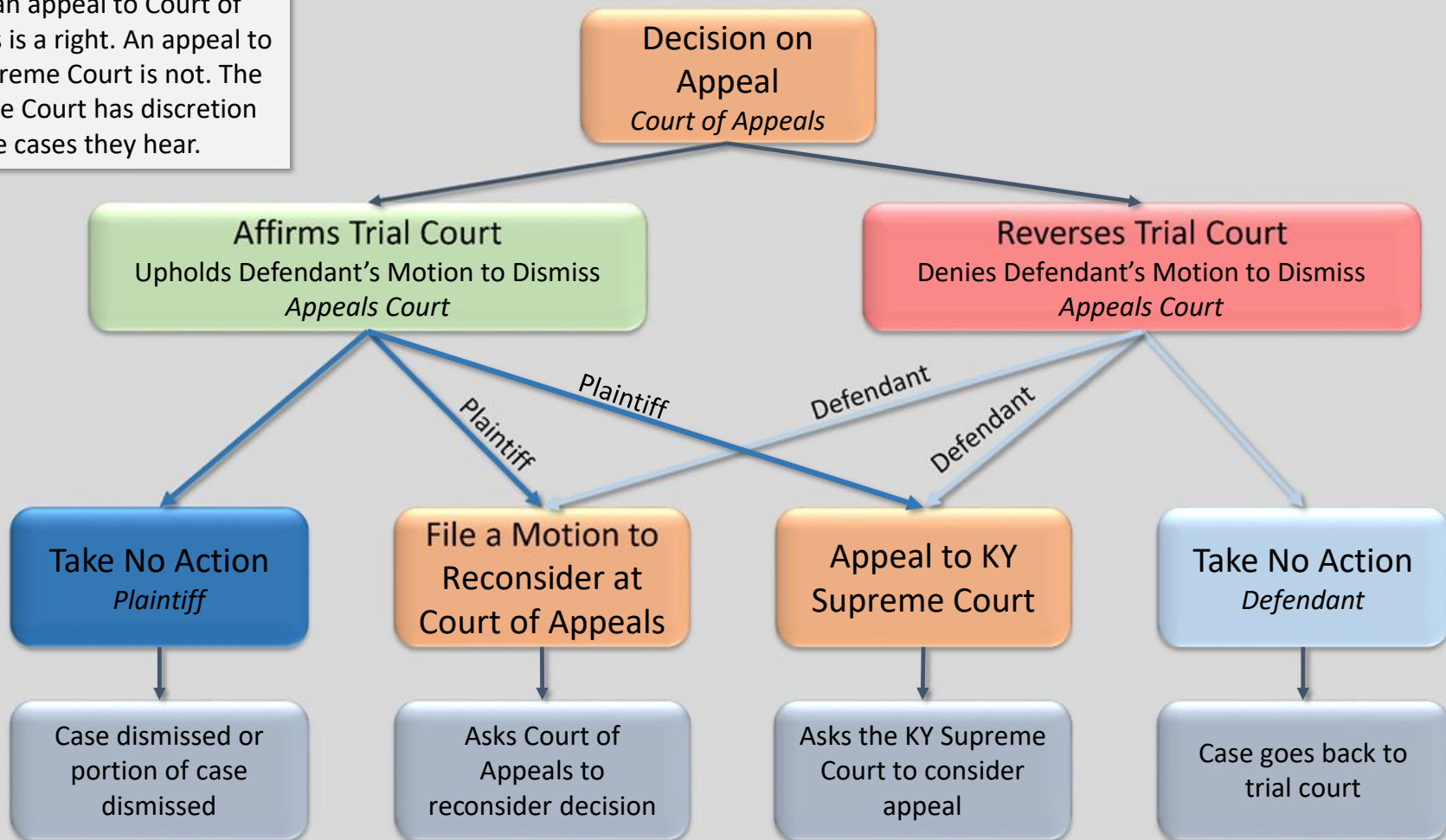
Appeal

## Adding Complexity to the Pleading Process



## Appealing Motion to Dismiss

\*In KY, an appeal to Court of Appeals is a right. An appeal to the Supreme Court is not. The Supreme Court has discretion over the cases they hear.



Pleadings

Discovery

Resolution

Appeal

Complaint  
*Plaintiff*

Answer  
*Defendant*

## Counterclaims

- If the Defendant includes a counterclaim in their Answer, the Plaintiff may file a Motion to Dismiss.
- Processes for filing and appealing a Motion to Dismiss would be the same as shown in previous slides, except the Plaintiff & Defendant roles would be reversed.

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**ANSWER**

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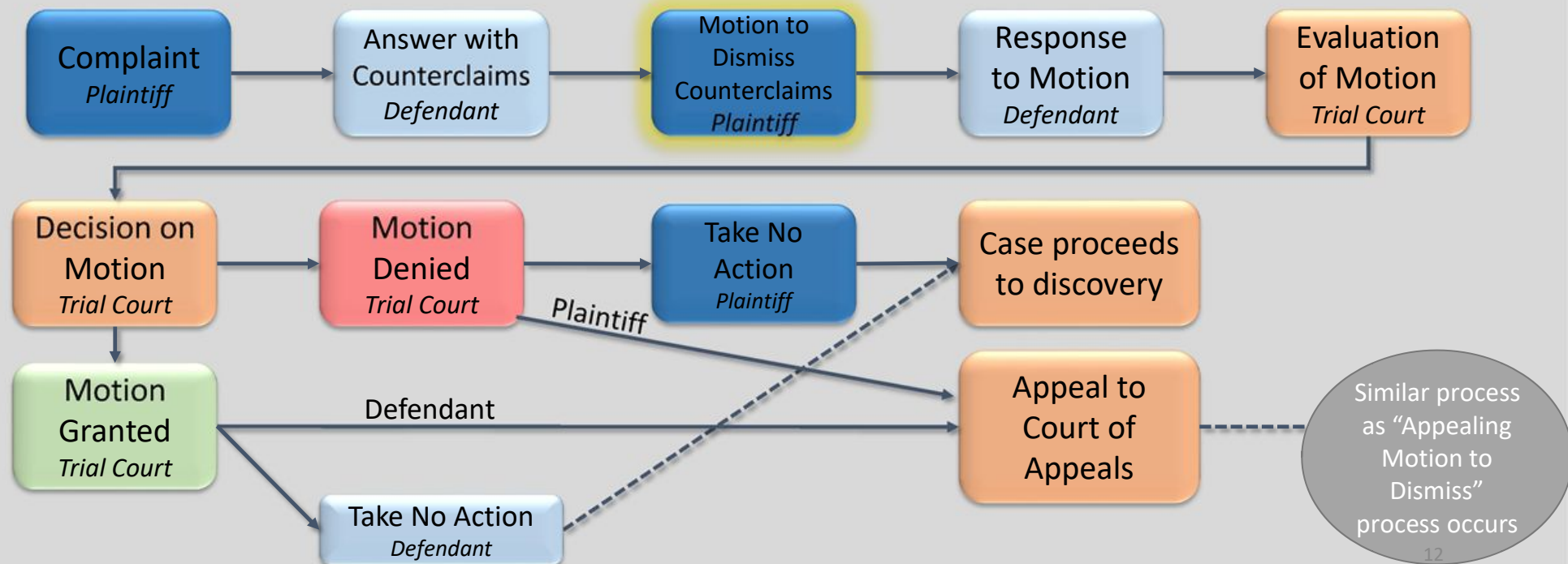
Pleadings

Discovery

Resolution

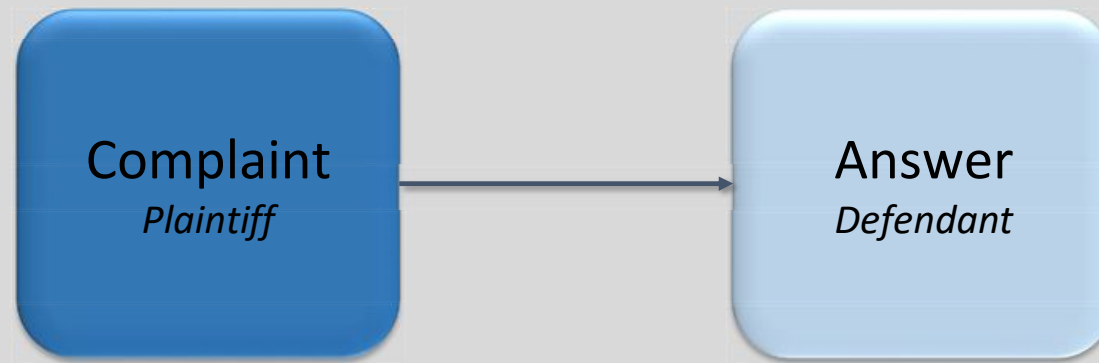
Appeal

## Adding Another Route in the Pleading Process



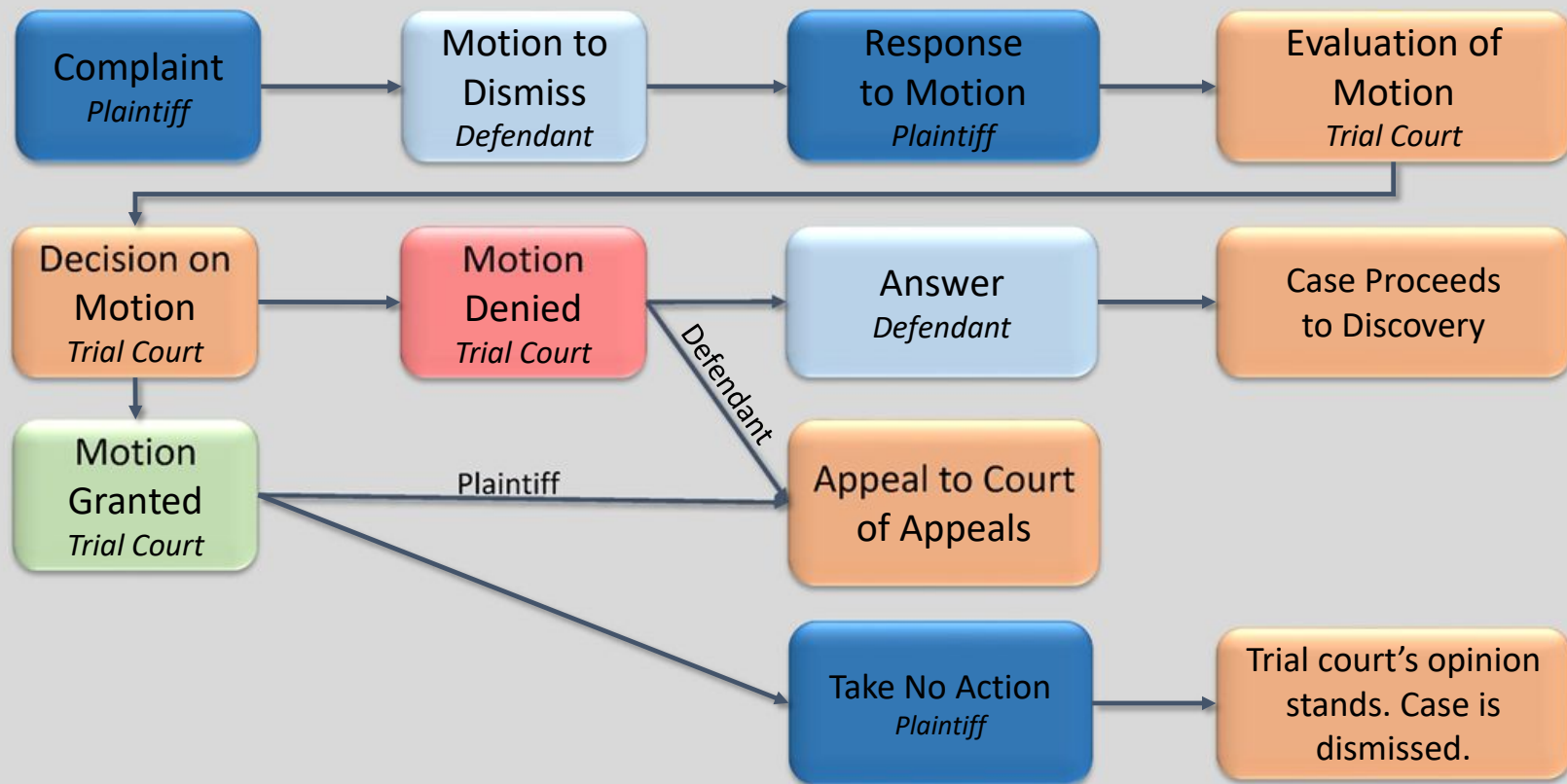
## Pleadings

# Putting it All Together



## Pleadings

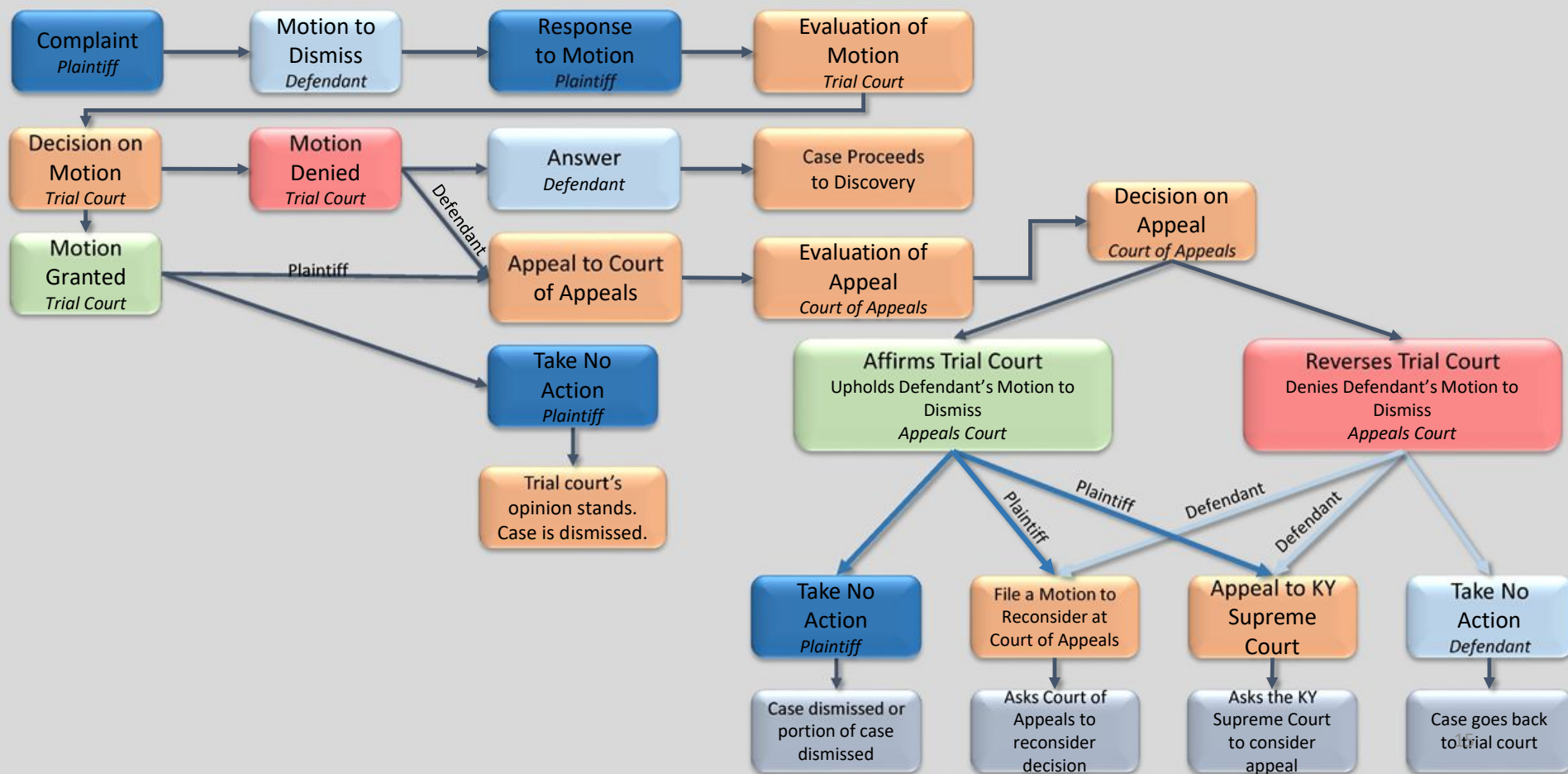
## Putting it All Together





## Pleadings

## Putting it All Together







Pleadings

Discovery

Resolution

Appeal

## Discovery

**Legal act of finding information previously unknown via freely given disclosures.**

**Parties may obtain discovery regarding any:**

- Matter relevant to the subject matter involved in the pending action; &
- Information “reasonably calculated to lead to the discovery of admissible evidence.”

**Discovery is open by default.**

- Generally, the requested information is going to be produced in some form.

Interrogatories

Requests for Admission

Request for Production

Depositions

Pleadings

Discovery

Resolution

Appeal

## Discovery

**Privileged information can be withheld:**

- Attorney-client privilege; and
- Legal work product.

**Harmful information to a party's case/defense isn't an exemption.**

**Parties may object to the request or ask the court for a protective order to limit how sensitive information is used.**

Interrogatories

Requests for Admission

Request for Production

Depositions

Pleadings

Discovery

Resolution

Appeal

## Common Discovery Objections

Interrogatories

**Not relevant:** Request seeks information completely unrelated to the matter at hand.

Requests for Admission

**Unduly burdensome or overly broad:**

- Production would require extreme expense or effort.
- Doesn't generally eliminate need for production, only changes the scope, manner, or timing.

Request for Production

**Vague or ambiguous:** Request is unclear to the point the producing party doesn't know what the requester is seeking and would be forced to speculate.

Depositions

Pleadings

Discovery

Resolution

Appeal

## Discovery Disputes

Interrogatories

Requests for  
Admission

Request for  
Production

Depositions

**The court resolves discovery disputes, but:**

- They expect parties to work together to overcome objections/issues before seeking intervention.

**Some courts require the parties to meet before any motions can be brought.**

**Many objections are resolved by:**

- Having the information produced, but subject to a protective order limiting the ability to publicize the information.

Pleadings

Discovery

Resolution

Appeal

## Common Discovery Methods

Interrogatories

Requests for  
Admission

Request for  
Production

Depositions

**A written question (usually a set of questions) submitted to an opposing party in a lawsuit as part of discovery.**

COMMONWEALTH OF ENCHANTED KINGDOM  
FOREST COUNTY CIRCUIT COURT  
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CIVIL ACTION NO. 23-CI-001234

JANE GOLDBLOCKS

PLAINTIFF

vs.

JOHN BEAR

DEFENDANT

---

**INTERROGATORIES**

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The Defendant, John Bear, by and through counsel, propounds the following Interrogatories pursuant to Rule 33 of the Kentucky Rule of Civil Procedure. These interrogatories are to be answered by Plaintiff while under oath and served on the attorney for Defendant within 30 days.

**DEFINITIONS**

1. The word "background" includes legal name, birth date, current residential address, marital status, employment address, employment position, and education level.
2. The term "healthcare documentation" refers to any report, note, prescription, diagnostic image, diagnostic testing, or any other relevant healthcare document.
3. The word "incident" refers to June 1, 2020.
4. The words "you" and "your" are defined as the Plaintiff.

**INSTRUCTIONS**

1. Divulge in your Answer all pertinent information in your possession, or in possession of your attorney's agent, investigators, employees, or other representatives.
2. If any Interrogatory is objected to by you as inquiring into a privileged matter, set forth full in the objection the facts which form the basis for your objection.

**INTERROGATORIES**

Interrogatory No. 1: Provide your background.

Interrogatory No. 2: Regarding paragraph 5 of your Complaint, describe and explain all specific facts and events regarding how you became in possession of the sampled porridge.

Interrogatory No. 3: Regarding paragraph 8 of your Complaint, describe and explain all specific facts and events on which you rely to support your contention the Defendant was negligent in the exercise of ordinary and reasonable care.

Interrogatory No. 4: Regarding paragraph 10 of your Complaint, describe and explain all specific facts and events on which you rely to support your contention the Defendant contributed to the your injuries.

Interrogatory No. 5: Regarding paragraph 12 of your Complaint, describe and explain all specific facts and events on which you rely to support your contention the contributed to your emotional distress.

Interrogatory No. 6: Describe and explain all specific facts and events regarding how you accessed the Defendant's property including the land and residential dwelling.

Pleadings

Discovery

Resolution

Appeal

Interrogatories

Requests for  
Admission

Request for  
Production

Depositions

**A party's written factual statement served on another party who must admit, deny, or object to the substance of the statement.**

- Generally, appears in one document.
- Admitted statements (or those not denied or objected to) are deemed as established and do not have to be proved at trial.



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JANE GOLDBLOCKS

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DEFENDANT

---

REQUEST FOR ADMISSIONS

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The Plaintiff, Jane Goldilocks, by and through counsel, pursuant to Ky. R. Civ. P. 36.01, requests the Defendant, John Bear, admit or deny, within thirty (30) days of the date of service of this request that: |

**Request No. 1:** Defendant was insured with a State Farm at the time of the plaintiff sustained injuries on June 1, 2020.0

**Request No. 2:** Defendant maintained home insurance coverage at the time of Plaintiff's injuries on June 1, 2020.

**Request No. 3:** The only policy applicable to this case is Policy No. 123456789, issued by State Farm with liability limits of \$300,000.00 per person.

**Request No. 4:** The personal injuries suffered by the Plaintiff are the result of the Defendant's negligence.

**Request No. 5:** The plaintiff suffered injuries during the incident on the Defendant's property on June 1, 2020.

**Request No. 6:** All of the attached medical records and medical bills for services rendered from June 1, 2020 – June 1, 2023 and bates stamped at 001 – 1000 are authentic.

**Request No. 7:** Defendant has no evidence to present at trial to support Plaintiff failed to mitigate her damages.

Pleadings

Discovery

Resolution

Appeal

Interrogatories

Requests for  
Admission

Request for  
Production

Depositions

**A party's written request that another party provide specified documents or other tangible things for inspection and copying.**

- Subject to claims of privilege.

COMMONWEALTH OF ENCHANTED KINGDOM  
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DEFENDANT

---

**REQUEST FOR PRODUCTION OF DOCUMENTS**

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The Defendant, John Bear, by and through counsel, hereby serves the following Requests for Production of Documents on the Plaintiff, Jane Goldilocks.

**Instructions**

1. Answers to these discovery requests shall be provided within thirty (30) days of service and shall be timely supplemented in accord with the requirements of Rule 26.05 of the Kentucky Rules of Civil Procedure.
2. Where knowledge or information in the possession of a part is requested, the request extends to knowledge or information in the possession of the party's predecessors or successors, the party's agents, employees, servants, representative, and unless privileged, attorneys.
3. Wherever an answer to these discovery requests contains information obtained from another individual or from somewhere other than your personal knowledge, state the source and nature of such information.
4. As used herein, the singular of any word or phrase includes the plural and the plural includes the singular.
5. If you contend that any communication or document sought by these discovery requests is subject to any privilege or is work product, state the general subject matters, date of transmission or preparation, and the nature of privilege for each document or communication.

**Definition of Terms**

- A. The terms, "document" or "documents" includes all writings, drawings, graphs, charts, photographs, recordings, and any other data computations from which information can be obtained, translated, if necessary by (you), through detection devices, into a reasonably usable form.
- B. The terms "you" or "your" include the persons to whom these requests are addressed, and all that person's agents, representatives, or attorneys.

**REQUESTS FOR PRODUCTION OF DOCUMENTS**

**REQUEST NO. 1:** All written, recorded, and/or signed statements of any person, including the Plaintiff, witnesses, investigators, or any agent, representative, or employee of the Plaintiff, concerning the subject matter of this action.

**REQUEST NO. 2:** All photographs, videotapes or audiotapes, x-rays, diagrams, medical records, surveys, or other graphic representations of information concerning the subject matter of this action, the Plaintiffs, or other damage.

**REQUEST NO. 3:** All written reports, and drafts, of each person whom you expect to call as an expert witness at trial.

**REQUEST NO. 4:** All of your medical records prior to the June 1, 2020 incident including notes, diagrams, photographs, medical records, medical bills, medical literature, case studies, research articles, x-rays, radiological films, or any other documents related to your healthcare.

**REQUEST NO. 5:** Copies of all reports and written data/information taken from all persons who have knowledge of this occurrence alleged in the Complaint.

**REQUEST NO. 6:** All documentation or tangible evidence which you claim supports your contention that the Defendant was negligent or otherwise caused or contributed to the damages you alleged sustained.

Pleadings

Discovery

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Interrogatories

Requests for  
Admission

Request for  
Production

Depositions

**The taking of sworn, out-of-court, oral testimony of a witness by opposing counsel.**

- Parties typically do not depose their own witnesses.

**Used to discover:**

- Information a witness may possess.
- What the witness' testimony may be at trial.

**May be reduced to writing for use in court.**

- In certain circumstances, may be used in lieu of live testimony.

**Caution:** Opposing counsel may ask almost anything, and while the defending attorney can object, the witness must still answer.

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Pleadings

Discovery

Resolution

Appeal

## Other Discovery Considerations

**Discovery can be very time consuming and expensive.**

**All documents must be reviewed before they can be turned over.**

- Documents withheld have to be noted on a privilege log.
- In cases with a lot of documents, the parties may choose to use a vendor to handle document exchange.

Interrogatories

Requests for  
Admission

Request for  
Production

Depositions

Pleadings

Discovery

Resolution

Appeal

## Overview

**There are three ways a case could reach a resolution.**

Dispositive  
Motions

**Motion seeking a trial court order that entirely or partially eliminates the claims in a lawsuit in favor of the moving party.**

Settlement

**Common types include:**

- Motions to Dismiss; &
- Motions for Summary Judgment

Trial Verdict

Pleadings

Discovery

Resolution

Appeal

## Motion to Dismiss

**A party may ask the Court to dismiss the other party's claims by using some or all of the following defenses:**

- a) Lack of jurisdiction over the subject matter;
- b) Lack of jurisdiction over the person;
- c) Improper venue;
- d) Insufficiency of process;
- e) Insufficiency of service of process;
- f) Failure to state a claim upon which relief can be granted; or
- g) Failure to join a party under Rule 19.

## Motion to Dismiss

COMMONWEALTH OF ENCHANTED KINGDOM  
FOREST COUNTY CIRCUIT COURT  
DIVISION II  
CIVIL ACTION NO. 23-CI-001234

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PLAINTIFF

vs.

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DEFENDANT

---

### MOTION TO DISMISS

---

Comes the Defendant, John Bear, and moves this Court to dismiss Petitioner Jane Goldilocks' Complaint under CR 12.02(f) for failure to state claim upon which relief can be granted. The Defendant attaches a Memorandum in Support of this Motion as part of its Brief on the Merits and a Proposed Order.

### NOTICE

Please take notice that, pursuant to the Scheduling Order, this Motion to Dismiss will be heard on Thursday, June 7, 2021, at 9:00 a.m., in Forest County Circuit Court, 456 Court Ave, Fairy Township, EK 12345.

### Failure to State a Claim

The moving party is:

- Asking the court to dismiss the case; and
- Alleging even if the facts contained the Complaint were true, they would not be entitled to relief under law.

Usually filed in early pleading stages.



## Motion for Summary Judgment

COMMONWEALTH OF ENCHANTED KINGDOM  
FOREST COUNTY CIRCUIT COURT  
DIVISION II  
CIVIL ACTION NO. 23-CI-001234

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DEFENDANT

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### MOTION FOR SUMMARY JUDGMENT

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The Defendant, John Bear, moves this Court for summary judgment under Kentucky Rule of Civil Procedure 56. The Defendant is entitled to summary judgment because there are no disputes regarding material facts of the case.

### NOTICE

Please take notice that, pursuant to the scheduling order, this Motion for Summary Judgment will be heard on Thursday, July 6, 2023, at 9:00a.m., in Forest County Circuit Court, 456 Court Ave, Fairy Township, EK 12345.

The moving party is:

- Asking the court to rule in their favor based on evidence already presented;
- Stating there is no genuine issue as to any material fact; and
- Alleging the other party will be unable to show evidence in their favor at trial.

Usually filed after discovery is complete.

Pleadings

Discovery

Resolution

Appeal

Dispositive  
Motions

Settlement

Trial Verdict

**An agreement ending a lawsuit (typically) before a Trial Verdict.**

- Can happen at any point during the suit
- Can even be reached during the appeals process

Pleadings

Discovery

Resolution

Appeal

Dispositive  
Motions

Settlement

Trial Verdict

**A decision on the factual issues of a case.**

- Can be decided by:
  - Jury trial; or
  - Non-jury trial (Bench trial)

Pleadings

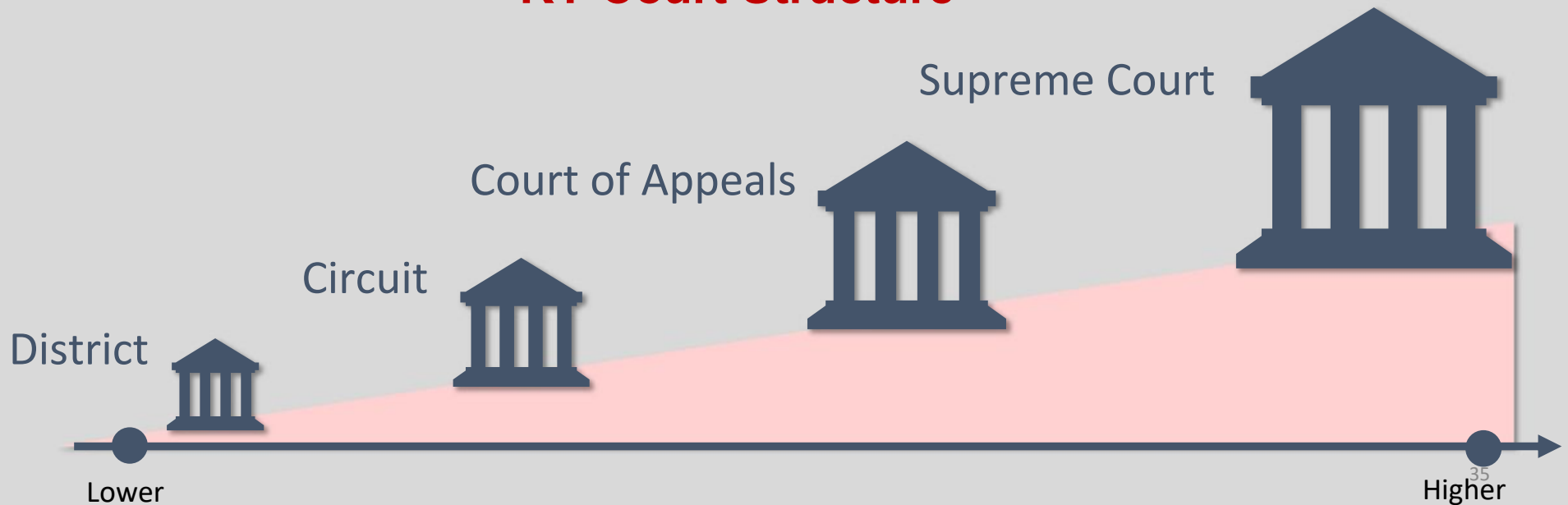
Discovery

Resolution

Appeal

An Appeal is a proceeding undertaken to have a decision reconsidered by bringing it to a higher legal authority.

## KY Court Structure



Pleadings

Discovery

Resolution

Appeal

**Appeals are a lengthy process, but often necessary to correct improper rulings of lower courts.**

**Generally, parties may only appeal final judgments or orders which settle all the rights of all the parties in the action.**

- Orders which do not resolve all the rights of the parties are considered “interlocutory” and are generally not appealable.
- May include some rulings on motions filed in the early stages of a lawsuit.



## Detailed Overview

