

# General aspects of the complaint

The filing of the complaint is the first procedural act of the judicial proceeding and the only opportunity (unless it is possible to amend it) for the plaintiff to make his claim before the Judge to obtain the result or effect that is in his interest. In that sense, the complaint represents the point of reference, from beginning to end, for the Judge and the respondent, given that the complaint will be one of the elements that the Judge will consider when issuing the judgment, and in turn, will be one of the bases upon which the defendant, following the factual and legal background outlined in the complaint, will exercise his defense.

The Judicial Code, in article 665, establishes the form requirements that the complaint must contain. However, it is essential to consider certain aspects before drafting the complaint:

1. Identify the facts relevant to the dispute.
2. Collect and examine the evidence concerning the relevant facts.
3. Plan the legal strategy based on the case theory, considering the facts and evidence in relation to the dispute.

On the other hand, filing a complaint, in addition to the above, fulfills other purposes. Among these, it interrupts the statute of limitations period, as established in article 669 of the Judicial Code, and prevents new judicial proceedings from being filed between the same parties with the same claim and on the same facts, as indicated in article 674 of the Judicial Code.

Once the complaint is filed, the Judge will examine the complaint to admit it (or not) or order its amendment. If the complaint is admitted, in the same resolution the Judge will



order appropriate notice of the complaint upon respondent to allow him to submit his reply within the corresponding period. Otherwise, if not admitted, it will be filed away. However, not admitting the complaint does not preclude the interested party's right to claim. It is important to note that the resolution that does not admit the complaint is appealable under Article 1131, paragraph 3 of the Judicial Code.

Further, if the Judge considers that the complaint has a defect, the Judge will order its amendment through a resolution and will grant a period of five (5) business days for the plaintiff to file the amended complaint, starting from the date the plaintiff was served with the resolution that ordered it. In the event the plaintiff does not amend the complaint within the corresponding period and/or as requested, the complaint will be deemed as not submitted, and the Judge will order the complaint to be filed away, but if the amendment is done as ordered, the Judge will issue a new resolution admitting the amended complaint.

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