IV The U.S Federal Rules of Civil Procedure:

Akin to the Civil Procedure Code in India, the United States has federal rules of civil procedure laying down the civil procedure for federal courts. All the States too have made their rules for the functioning of state courts. There is a difference however in the way in which federal rules of civil procedure were formulated in the U.S. In India, the Civil Procedure Code came as a central enactment. In the United States, Congress delegated to the United States Supreme Court power to establish federal rules of Civil Procedure by the Act of June 19, 1934.

The only limitation on the authorisation contained was that the new rules of procedure could not alter any substantive rights. The Act provided that the rules were to take effect 6 months after their promulgation. In response to this grant of authority, the Supreme Court appointed an Advisory Committee of practitioners, professors, the President of the American Law Institute, and several other experts and assigned them the duty of preparing and submitting a draft of these rules. In December 1937 the Advisory Committee to the Supreme Court submitted the proposed rules to the Supreme Court and then to the United States Attorney
These rules prescribe detailed procedures governing all federal proceedings in all federal district courts. There have been amendments to these rules since then. On April 4, 1960 the Chief Justice of the United States Earl Warren, Acting pursuant to the Act of Congress of July 11, 1958, appointed six standing committees to maintain continuous study of the Rules, in order to recommend improvements and to keep the rules up to date. Under this law any recommendations of these committees go to the Supreme Court, which then disapproves of such recommendations or presents them to Congress. If Congress does not expressly reject such recommendations, they then become effective 90 days after presentation to Congress for adoption. Most of the states have also adopted their rules of procedure modeled after the federal rules. A civil litigation will normally go with the following stages in the U.S. 

1. Establishing the facts
2. The lawyer as negotiator
3. Commencement of Court Involvement (On failure of No.3)
(4) Discovery
(5) Motion for Summary Judgments

(6) Trial (If the case does not get decided in No. 5)

(7) Judgement.

Broadly speaking, the stages above are similar to that under the Code of Civil procedure, 1908. It may be noted however that elaborate rules for pre-trial conference and discovery under the supervision of the Courts exist in the U.S. as distinguished from India. Further these methods and also the summary judgement methods are frequently used in the U.S. This facilitates speedy disposal of cases 4.

We will be concerned with federal rule 23 as amended in 1966, which prescribes the procedure for class action suits.
Foot Notes on the U.S. Federal Rules of Civil Procedure


(3) Supra foot Note No.1, Chapter 6, Also see 32 Am Jur 2d, Federal Practice and Procedure, Sections 419 to 423.

(4) For good comparative discussion see in Re. Union Carbide India Ltd. proceedings from Upendra Baxi and Thomas Paul, Mass Disasters and Multinational Liability The Bhopal Case, N.M.Tripathi, B'Bay, 1986 particularly pages 182 to 193, affidavit of Marc C.Galanter.