



The “Garden Variety” Civil Lawsuit

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What We Will Cover Today

- What is a “garden variety” civil lawsuit?
- What are the stages in the process of that lawsuit?
- Do I need an attorney?
- How much should I budget to cover litigation fees and costs?
- What happens after the Court enters the judgment order?





What is a “Garden Variety” Civil Lawsuit?

- Not a criminal case
- Not a civil lawsuit against an agency to challenge decision it made on an environmental permit ([my Aug. 18, 2023 webinar](#) covers cases of this type)
- Private person sues another private person
- Seeking a judgment order for money or conduct

Courts Where Suits of this Type May be Heard (Trial Level)

- Federal
 - U.S. District Court for the Eastern District of Virginia
 - Norfolk
 - Newport News
 - Richmond
 - Alexandria
- State
 - General District Court (each City and each County in VA has one)
 - Exclusive jurisdiction if claim is \$4,500 or less
 - Civil cases up to \$25,000 or, if personal injury or wrongful death, up to \$50,000
 - Circuit Court (each City and each County in VA has one)



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A high-speed photograph of water splashing, creating a crown-like shape with many small bubbles. The water is clear and the background is a light, neutral color.

“Garden Variety” Civil Lawsuits Litigated by Our Waterfront Property Law Team

- Force removal of “floating junkyard” clogging waterway (U.S. District Court, Eastern District of Virginia)
- Establish riparian area (various Circuit Courts)
- Settle rights at piers (various Circuit Courts)
- Eliminate neighbor’s obstruction of dredging project (Circuit Court)
- Force tug company to pay cost to repair bridge damaged by allision (U.S. District Court, Eastern District of Virginia)
- Force U.S.C.G. to pay cost to repair barge damaged by wake from passing cutter (U.S. District Court, Eastern District of Virginia)
- Force neighbor to honor easement permitting vehicular access to waterfront property (Circuit Court)



What are the Stages in a Civil Lawsuit?

- Plaintiff serves Complaint & Summons to defendant
- Defendant files pleadings in response
- Discovery commences once the parties are “at issue”
 - Interrogatories
 - Requests for production of documents
 - Subpoena documents from non-parties
 - Depositions
 - Motions
- Trial
- Post-trial



Do I Need an Attorney?

- Foolish mistake for a layman to represent him/herself in court
- Foolish mistake for an attorney to represent him/herself in court

How Much Should I Budget to Cover Litigation Fees and Costs?

- “Garden Variety” litigation normally NOT a money-making proposition for plaintiff or defendant
- The losing side normally does NOT reimburse the winning side for its legal fees (although loser usually pays winner’s costs)
- Attorneys normally do NOT take cases of this type on a contingency fee arrangement
- Attorney fees
 - Hampton Roads: \$250 to \$650/hour
 - Northern Virginia: \$450 to \$950/hour
- Costs (photocopies, expert witnesses, court reporters, etc.)

Discussion of Fees and Costs -- Continued

- Litigation is like a journey on a train -- the rider must purchase another ticket to continue each successive leg of the trip
- Mounting fees and costs, together with information gained re strengths and weaknesses of case, are the reasons that as many as 97% of civil cases are resolved other than by a trial
- Disputes like these can be settled even before a suit is filed
- Once a suit is filed, it can be settled before the trial begins, during the trial, while the jury is deliberating, or even after a verdict is rendered (source [American Bar Association](#))



Unknown authorUnknown authorPix photographer, Public domain, via Wikimedia Commons

Ballpark Estimated Fees and Costs

- \$3,500 to \$7,500 to initiate the litigation
- If Defendant files Demurrer (state court) or Motion to Dismiss (federal court) Plaintiff spends \$5,000 to \$10,000 to respond
- \$2,500 to \$7,500 for written discovery (cost is higher if there is motions practice)
- \$5,000 to \$30,000 for depositions
- \$7,500 to \$30,000 for trial preparation
- \$25,000 for 3-day trial

**\$Grand total:
\$48,500 to \$110,000, or more
(exclusive of post-trial legal work)**



What Happens After the Court Enters the Judgment Order?

- If the judgment orders defendant to pay money to plaintiff
 - Defendant can appeal but, to do so, must pay the judgment amount into court so funds are available to plaintiff if the appeal fails
 - If Defendant does not appeal and pays the judgment the case is over
 - If Defendant does not appeal and does not pay the judgment, plaintiff can use legal tools to collect the judgment
- If the judgment orders defendant to do something
 - Defendant can appeal
 - If Defendant does not appeal and complies the case is over
 - If Defendant does not appeal and does not comply, plaintiff can use legal tools to force defendant to comply



Additional Resources

- Article: Pier Case Victory For Homeowners in Fairfax Count
 - <https://www.waterfrontpropertylaw.com/blog/posts/waterfront-team-wins-homeowners-association-pier-case/>
- Article: How Citizens' Environmental Lawsuits Can Stop Pollution
 - <https://www.waterfrontpropertylaw.com/blog/posts/stopping-pollution-with-citizens-environmental-lawsuits/>
- Article: Am I Civilly Liable for Property Damage, Death or Injury Occurring on the Water Near my Waterfront Property?
 - <https://www.waterfrontpropertylaw.com/blog/posts/waterfront-property-law-liabilities/>



Thank You & Questions

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