

LITIGATION ISSUES: QUESTIONS AND ANSWERS

What is litigation?

"Litigation" refers to actual contested proceedings where some type of lawsuit is filed with the court. Nasty letters, verbal arguments, and even fistfights do not constitute litigation. True litigation starts the moment one side or the other files an actual lawsuit with the court.

Why does litigation cost so much?

Litigation is expensive for a number of reasons, but the primary reason is that litigation is very time consuming and labor-intensive. For a lawyer to be ready at trial, he must know virtually every aspect or facet of the case, and be familiar with each and every document associated with the case. Some lawyers estimate that they must spend at least 10 hours in preparation for every one hour of actual trial time. Sometimes the cost of expert witnesses greatly increases the litigation expenses. In other cases, the sheer number of witnesses to be interviewed and/or cross-examined can greatly influence the expense of the case.

If I get into a dispute, are there less expensive alternatives to litigation?

There are alternatives to litigation, most of which fall under the general category of "Alternative Dispute Resolution." Two of the most common options are mediation and arbitration. For more detail on ADR, click on the section labeled "Alternatives to Litigation."

Assuming a lawsuit was just started, how long does it take to get to trial?

The length of time from starting a lawsuit until actual trial of a lawsuit is very difficult to generalize, because scheduling issues will depend upon the individual judge, whether you are in federal court or state court, whether either side will purposely delay, whether extensive discovery is necessary, and many other factors. In some counties, a trial may take place within nine months of initial filing. In counties having a large amount of filings, in particular Hennepin County and Ramsey County, the expected time between initial filing and a trial date might range anywhere from 12 months through 2 years. The Minnesota court system is generally making efforts to move cases along as rapidly as possible. If you have a case that you want to move forward, make sure that your attorney actually files and serves the lawsuit in a timely manner, and make sure the attorney files the paperwork to **request** a court date.

Are there some matters which proceed more quickly through the court system?

Yes. Unlawful detainers (eviction lawsuits) proceed to trial in a matter of weeks. Conciliation court hearings are generally scheduled within a month or so, and if one party appeals a conciliation court decision to the district court judge, those trials are

generally heard within three to six months. Motions for establishment of temporary child support or alimony are also scheduled on fairly short notice, even though the final trial may be months or years away.

Am I entitled to a jury trial?

Generally speaking, a party in most civil lawsuits is entitled to a jury trial. This includes collection disputes, contract lawsuits, and personal injury lawsuits. The right to a jury applies to any serious criminal case. Jury trials are not available in divorce actions, juvenile proceedings, or probate proceedings; those matters are determined solely by a judge acting without a jury.

What are the general stages of civil litigation?

In a civil case, as opposed to a criminal case, the general steps of litigation are as follows:

1. Investigation and preparing the lawsuit;
2. Initiating the lawsuit by serving a summons and complaint;
3. Discovery stage (where the parties exchange information and documents);
4. Pretrial/scheduling stage (where pretrials and trial dates are set);
5. Trial itself;
6. Appeals or other post-judgment matters.

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