

# Circuit Court and Records

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LOB #178:

## **CIVIL DIVISION**

### **Purpose**

Because all functions of the Clerk's Office are mandated by the Code of Virginia, the primary purpose is to observe all Code-mandated duties and Rules of Court related to civil cases in the Fairfax Circuit Court. Title 8 of the Code of Virginia, titled "Civil Remedies & Procedures," sets out 1,386 pages of practice and procedure for all civil cases that are heard in the Circuit Court, and they establish mandatory procedures for the Clerk's Office. What is unique about Circuit Court, is that it is the only court in Virginia where you can receive a Jury Trial, and the Clerk of the Circuit Court administers the Jury Duty process.

In addition to the Code, Civil Practice & Procedure is governed by the Rules of the Virginia Supreme Court; specifically, Rules 3:1- 3:25. The main purpose of the Circuit Court's civil docket is provide fair and efficient resolution to disputes among citizens of Fairfax.

### **Description**

The Civil Division of the Circuit Court takes in and actively manages a vast range of cases: complex contract disputes, defamation suits, malpractice cases, personal injury suits, complex commercial litigation, divorces, adoptions, name-changes, property disputes, confessed judgments, appeals of administrative decisions, and even election recount cases. Almost every type of case other than criminal prosecutions and the probate of wills, are considered "Civil Actions" in the modern Virginia Circuit Court.

Once a civil action is filed, the Civil Division administers the service of process, which is executed by the Sheriff or private process-server. Most of the Court's complex civil litigations will then be placed into the "Differentiated Case Tracking Program (DCTP)," which establishes a tight time-line for the schedule of the litigation and the setting of a trial date. Fairfax was the first court in the Commonwealth to use a DCTP. The Clerk's Office actively monitors and manages this tracked time-line and schedules motions to be heard by the Judges of the Circuit Court on our Friday Civil Motions Day. Evidence shows that when the Court takes an active role in enforcing timelines, the cases are more likely to settle or narrow the issues for trial. Once the depositions and other civil discovery have been addressed by the parties, the pre-trial motions will be resolved and the case will move to jury selection. If any of the parties are unsatisfied with the result of their case in Circuit Court, the Clerk's Office will compile the official record for appeal to the Supreme Court or Court of Appeals. Structurally, the Civil Division oversees the complete life cycle of litigation - from taking in the initial complaint, to the certification of the appellate record.

### **Benefits**

The Clerk of Circuit Court is the Constitutional Officer who is mandated to perform duties as the Court's recipient, custodian and manager of all pleadings, bills, affidavits, complaints, motions and petitions that are submitted into the official court record. As the civil litigation reaches its trial, the Clerk of Court administers a fair and efficient jury duty process. Once the judge and jury have made their final decision in the civil matter, the Clerk's preparation of the appellate record offers the parties swift and complete access to the entire Virginia court system.

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## Mandates

As mentioned above, Title 8 of the Code of Virginia, titled “Civil Remedies & Procedures,” sets out 1,386 pages of practice and procedure for all civil cases that are heard in the Circuit Court, and they establish mandatory procedures for the Clerk’s Office. What is unique about Circuit Court, is that it is the only court in Virginia where you can receive a Jury Trial, and the Clerk of the Circuit Court administers the Jury Duty process.

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## Trends and Challenges

The Civil Division of the Circuit Court takes in approximately 20,000 new cases every year. There is a substantial increase in the number of civil cases where parties are not represented by an attorney or “*pro se*.” Pro se litigation usually requires a significantly higher level of customer support than those cases involving lawyers. In 2013, the Supreme Court of Virginia launched its “Commission on Access to the Courts.” This new commission is charged with examining *pro se* access to civil litigation throughout Virginia, with an eye toward more customer service for those who file suit without an attorney.

## Resources

Category	FY 2014 Actual	FY 2015 Actual	FY 2016 Adopted
<b>LOB #178: Civil Division</b>			
<b>FUNDING</b>			
<u>Expenditures:</u>			
Compensation	\$2,001,650	\$1,955,404	\$2,063,590
Operating Expenses	215,595	242,552	220,647
<b>Total Expenditures</b>	<b>\$2,217,245</b>	<b>\$2,197,956</b>	<b>\$2,284,237</b>
General Fund Revenue	\$1,949,158	\$1,835,057	\$1,787,891
Net Cost/(Savings) to General Fund	\$268,087	\$362,899	\$496,346
<b>POSITIONS</b>			
Authorized Positions/Full-Time Equivalents (FTEs)			
<u>Positions:</u>			
Regular	38 / 38	38 / 38	38 / 38
<b>Total Positions</b>	<b>38 / 38</b>	<b>38 / 38</b>	<b>38 / 38</b>

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### Metrics

Metric Indicator	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 Estimate	FY 2017 Estimate
Number of Non-Criminal Cases Filed / Year	21,346	20,598	19,907	20,000	20,000
DCTP: Commercial Litigation Concluded within 1 year	3,035	2,482	2,176	2,500	2,500
DCTP: Domestic Cases Concluded within 15 months	4,783	4,452	3,694	4,100	4,100

The Civil Division of the Fairfax Circuit Court takes in approximately 20,000 new cases a year, including adoptions, divorces, contract disputes, concealed weapons permits, tort actions, and administrative and GDC appeals. For FY 2015, non-criminal case intake (Civil and Fiduciary together) totaled 19,907, of which 17,470 were civil litigations.

Certain civil disputes are eligible for the Court's Differentiated Case Tracking Program (DCTP), which helps keep Fairfax's civil trial docket efficient. For FY2015, 87 percent of the DCTP commercial litigations/contract disputes were concluded within a year, and 98 percent of domestic cases concluded within 15 months from initial filing.