

WHAT DOES IT MEAN TO LITIGATE A CIVIL CASE?

Alternative dispute resolution (ADR) is so named because it provides an “alternative” to litigating a civil dispute before a court in a bench or jury trial. The most popular forms of ADR are mediation and arbitration, although other options exist.

Litigation is when a lawsuit is filed in a court of law. A lawsuit typically involves a dispute over a particular state of affairs: a contract breach, an injury suffered in an accident, or some other dispute situation.

Litigation offers certain advantages. Access to the decision-maker, whether judge or jury, is free of charge, except for minimal filing fees. Discovery is part of the litigation process, and can be wide-ranging, allowing the parties to gather a great deal of information. Third parties can be added to a law suit, if appropriate. The rules of evidence and procedure are well-defined. The final decision can be enforced by the court. If a party loses, that party has the right to appeal. And, litigation does not prevent the parties from attempting ADR or negotiating a settlement before, during or even after trial.

Despite these benefits, litigation also has certain disadvantages. The large case load faced by judges, as well as the demands of discovery and procedural issues, can make litigation both slow and expensive. The broad discovery allowed in litigation and the inherently public nature of litigation can expose damaging or embarrassing details, creating brand or reputation management concerns. Highly technical or complex disputes can be difficult to present to a judge or jury in an efficient and accessible manner, as judges and juries may lack the specialized knowledge needed to fully grasp the issues involved in the dispute. Litigation decisions can be appealed, adding additional expense and extending the duration of the dispute.

If you have any question, please contact Grant Killoran at grant.killoran@wilaw.com or 414-276-5000.