

Pace Of A Case

Relative to the amount of time it takes for a case to get through the court system, it can be said that at times the wheels of justice do in fact turn slowly.

There are a lot of people in the world, bumping into one another in all kinds of ways, and asking the courts to fix what went wrong in such encounters. The work load of the courts is very high and there are a limited number of judges and courtrooms. Essentially what is often happening in a litigation matter, is that what occurred out in the real world must be recreated in court through testimony and physical evidence. Each case can be considered a production of sorts and it takes quite a while to get it right. Also, with rules designed to result in a fair and just result, efficiency sometimes may seem to be lacking.

An additional factor that can cause delay with some types of case is, believe it or not, the unavailability of lawyers. An attorney who has responsibility for a certain case may have many cases of a similar nature and can not be in multiple courts at the same time. As a result, cases may get adjourned and rescheduled over and again.

The good news is that perceived delays in the process are not as long as they used to be. The courts do seem to work hard and often get good results at keeping the system moving. Cases are tracked by age and the judges do answer through a supervisory system for what is happening in their courtrooms.

There are mechanisms built into the system that allow for a speedier track, if certain conditions are met. Less complicated cases may be designated as such and the period to prepare for trial is then shortened. Also, the Rules Of Court (actually a thick and detailed book of rules) includes ways in which matters may be dealt with summarily, in a faster or more abbreviated fashion. This can save much time, and money.

For example, an Order To Show Cause, is often used in certain types of cases. The basic way it works is as follows: The process of bringing a matter before the court often commences with the filing of a Complaint. That Complaint will detail for the court the type of relief that is requested...a Complaint for divorce...a Complaint regarding personal injuries...to evict someone, etc. Certain types of Complaints are forwarded to the court with an Order To Show Cause. This form of Order, when signed by the court, is served on all interested parties, and each is asked to come into court and "show cause" why the relief in the Complaint should not be granted in a summary fashion. This "return date" to come into court may be only a month or so from the date the Complaint was filed. If an interested party does not respond or if such person can not show that a more detailed hearing is required, then the court can decide the matter on the return date.

Only certain types of Complaints are appropriate to be accompanied by an Order To Show Cause. For example, the court would not consider a car accident case with a claim for injuries as appropriate for such summary relief. Orders To Show Cause are often used for other types of cases such as when demanding an accounting from an executor of an estate or for the Guardianship of an incapacitated person.

For many types of cases, there are other ways in which the court can be solicited to move the matter along in a faster and summary fashion. One such way is to ask for a Summary Judgment. Instead of waiting for a trial, a party to an action may make a motion to the court and essentially assert that there are truly no facts in dispute and that only one verdict is possible from those facts present. One would have to prove to the court that the matter is so clear that a full hearing is not required. The standard for such relief, in other words, what must be shown in order to get the court to so act, is very high. Essentially, one must show that even if the court were to look at all the evidence in the light most favorable to the party against whom the relief is being sought, that there is insufficient evidence to support that party's case. It is a very difficult standard to meet but it can occur, and when it does, the moving party will greatly benefit thereby.

The litigation process can take a long time and may result in significant expenses. However, with the right type of case or set of facts, the law does provide opportunities to accelerate the process.

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