

## GENERAL CIVIL LITIGATION

General Civil Litigation is a term used to refer to many different types of actions which may be pursued through a court system. Civil Litigation includes some of the more specialized areas of Civil Litigation such as personal injury, wrongful death actions, and probate and administration of estates proceedings. Civil Litigation also includes many other areas of litigation including, but not limited to, actions for breach of contract, products liability, ownership and title to real estate as well as landlord and tenant issues. In addition, equitable issues such as unjust enrichment and quantum meruit are also included in Civil Litigation. Basically, any action which can be pursued through the court process is considered civil unless it is a criminal issue. Other matters which are included in Civil Litigation are employment issues, issues involving fraud, defamation of character, including libel and slander, wrongful termination issues, whistleblower and false claims issues.

During Jerry's legal career, he has handled over 9,200 different legal matters; approximately 70% of those matters consisted of divorce and other family law cases. The assets in the divorce cases ranged from several thousand dollars to multi-million dollar estates. Although family law issues constituted the majority of Jerry's caseload through the years, he has handled, negotiated and litigated approximately 3,000 other civil matters including, but not limited to, personal injury, wrongful death, medical malpractice, real estate litigation, fraudulent construction, business litigation, will contests, preparation of wills, probate and administration of estates, breach of contract and other general civil litigation matters. Those cases were negotiated and litigated in the various courts in many Georgia counties and in the Federal Court system, with a success rate of approximately 95%. Although most of the cases were settled at some point before final trial, Jerry has had several thousand hearings, non-jury and jury trials. Jerry has had experience in not only divorce cases but also personal injury cases, medical malpractice cases and will contest cases where the assets and claims were valued at several million dollars. If you have any type of civil litigation claim, Jerry would like to have the opportunity to help you evaluate that claim. If he is unwilling or unable to assist you with your claim, he will probably be able to refer you to an attorney who might be able to assist.

### **Some of the major sub-categories of General Civil Litigation are:**

Breach of Contract

Georgia Contract Laws

Wrongful Termination

Contract Litigation

Employment Contract

Whistleblower and False Claims

Will Contests and Probate and Administration of Estates

Real Estate Litigation

Construction Litigation

Fraud and Deceit

### BREACH OF CONTRACT

A breach of contract occurs when a party, who agreed to formulate a contractual obligation with another party, does not carry out the intended function of the contract. As a result, a breach of contract is a legal cause of action where the binding agreement latent in the contract, is not honored by one or more of the parties to the contract.

A breach of contract can result if an individual fails to complete a specific performance that was expected by the contract or by interfering with the other party's ability to perform the task. If a party, who agreed to form a contract with another party, does not fulfill his or her contractual promise or has given information to the other party that he or she will not perform the expected duty as specified in the contract, the party is said to have committed a breach of contract. In addition, if the individual is unable to perform the obligations contained in the contract, a breach of contract occurs.

Remedies for a Breach of Contract:

In most instances, the judicial remedy for a breach of contract is the delivery of monetary compensation for damages incurred. If the failure to perform or satisfy the contractual obligation cannot be redressed through monetary compensation, the underlying court may enter an equity decree, such as an injunction or the delivery of specific performance.

The aggrieved person has the obligation to mitigate damages through reasonable means. In the United States, under contract law, punitive damages are typically not awarded for a breach of contract but may be awarded for other causes of action in a lawsuit.

### WHISTLEBLOWER AND FALSE CLAIMS

Numerous federal and state whistleblower laws protect employees, officials and other persons who suspect or discover fraud, waste or abuse within government or that a company doing business with government has violated the law or defrauded the government. The employee or person having knowledge of the violation or fraud, known as the whistleblower or "relator", typically fears losing his or her job or suffering other retaliation by reporting the fraud. While the right course may be to speak out, an employee, agent or contractor who does so risks losing

his or her job as well as other possible legal consequences. The whistleblower faces an untenable situation, torn between loyalty to his employer, legal or ethical duties, and self-preservation.

Whistleblower issues and claims arise in numerous circumstances, such as government contractors who overbill or submit fraudulent bills to the government, Medicare or Medicaid fraud and overbilling by healthcare providers and facilities, public or private employers cutting corners on safety issues, companies or high-wealth individuals engaging in tax fraud or unlawful employment practices (such as discriminatory practices or violations of overtime and wage laws), and public companies defrauding investors by failing to disclose adverse business or financial information or presenting false information. In such situations, if an employee exposes an unsafe, illegal or unethical practice and suffers retaliation such as harassment, dismissal, job transfer or demotion, he or she may have legal recourse against the employer.

Federal and state whistleblower statutes are designed to encourage employees and other persons with knowledge of fraud, waste or illegal activity to report it and to protect them from dismissal or other retaliatory actions by employers. Some laws allow whistleblowers to recover actual damages, including back pay, lost benefits and other job-termination damages, caused by retaliatory firings or other adverse employment actions. In addition, whistleblowers may receive substantial monetary awards from recoveries based on the illegal, unethical or fraudulent activities exposed.